





DOCUMENTARY MATERIAL

RELATING TO

THE HISTORY OF IOWA

EDITED BY

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LOCAL GOVERNMENT

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## PREFACE.

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This volume of *Documentary Material Relating to the History of Iowa* is a continuation of Volume II., which is concerned with the history of local political organization from 1787 to 1834. Herein documents are presented which are illustrative of the development of Local Government in Iowa from the establishment of the Territory of Wisconsin in 1836 to the revision of the statutes of Iowa in 1842-43. Numbers XXI., XXII., XXIII., and XXIV. contain the materials relating to Local Government in Iowa which have been preserved in the archives of Michigan and Wisconsin.

BENJ. F. SHAMBAUGH.

*State University of Iowa,*  
*April, 1901.*

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## NUMBER XVII.

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The documentary material presented in this number is illustrative of the development of Local Government in the Territory of Wisconsin from the establishment of the said Territory, in 1836, to the establishment of the Territory of Iowa in 1838.

B. F. S.



LOCAL GOVERNMENT IN THE TERRITORY OF  
WISCONSIN.

## AN ACT PRESCRIBING THE DUTIES OF CORONERS.

SEC. 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That there shall be elected in each of the several organized counties in the territory, a coroner, whose term of service shall be for two years, and whose duty it shall be to execute all process in their respective counties, in all cases where just exception can be taken to the sheriff or his deputy or his deputies, or where there is no sheriff; and in all cases upon affidavits made and filed of any court of record of this territory, of the partiality, prejudice, consanguinity or interest of the sheriff or of the deputy of the sheriff, of any county where suit is about to be brought or shall have commenced, it shall be the duty of the clerk to issue and direct original or other process, in the suit, to the coroner, who shall execute the same and attend to the same throughout, in the same manner as the sheriff would or ought to have done; and that hereafter the partiality, prejudice, consanguinity or interest, of any sheriff or of any deputy, shall not be cause for a change of venue, but the coroner shall perform the duties above prescribed; or if there should be no coroner, some proper person to be appointed by the clerk, shall supply the place of the sheriff, in like manner as the coroner is hereby required to do: *provided always*, that when the coroner be required to discharge the duty of sheriff, he shall execute such bond and security as the clerk may require.

SEC. 2. *Be it further enacted*, that every coroner, as soon as, and whenever he shall be informed, or know of the body of any person being found dead, supposed to have come to his or her death by violence, calamity or any undue means, shall forthwith proceed to summon a jury of twelve good and lawful men, of the neighborhood where said dead body shall be found lying or being, to repair at such time as he shall direct, to the place where said dead body may be, to inquire

(upon a view of said body,) how and in what manner, and by whom or what he or she came to his or her death; \* \*

SECTION 3. *Be it further enacted*, that as soon as the said jurors shall have assembled at the place where the said dead body may be lying, or being, the coroner shall designate one of the number as foreman, and administer to him an oath in the following form, to wit: \* \* \* \*

SECTION 8. *Be it further enacted*, that in case of the absence of the coroner, any magistrate being notified of any dead body as before mentioned, shall be authorized and required to perform the duty of the coroner, as pointed out in this act.

SECTION 9. *Be it further enacted*, that all acts and parts of acts, under the existing laws of Michigan, prescribing the duties of coroner, be and the same are hereby repealed: *provided*, that the coroner elected under the laws of Michigan, shall continue in office and execute the duties thereof under the provisions of this act, until others shall be duly elected.

SECTION 10. This act to take effect, and be in force, from and after its passage.

P. H. ENGLE,

*Speaker of the house of representatives.*

HENRY S. BAIRD,

*President of the council.*

H. DODGE.

Approved Nov. 29, 1836.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 22.

AN ACT TO AMEND THE SEVERAL ACTS HEREINAFTER MENTIONED, TO WIT: AN ACT, ENTITLED AN ACT RELATIVE TO THE DUTIES AND PRIVILEGES OF TOWNSHIPS, APPROVED 17TH OF APRIL, 1833, ALSO AN ACT, ENTITLED AN ACT TO PROVIDE FOR THE ASSESSMENT AND COLLECTION OF TOWNSHIP AND COUNTY TAXES, APPROVED 22D APRIL 1833, ALSO

AN ACT, ENTITLED AN ACT TO PROVIDE FOR THE DEFRAYING OF THE PUBLIC AND NECESSARY EXPENSES IN THE RESPECTIVE COUNTIES OF THIS TERRITORY AND FOR OTHER PURPOSES, APPROVED MARCH 6TH, 1833, ALSO AN ACT, ENTITLED AN ACT TO REGULATE HIGHWAYS, APPROVED APRIL 17TH, 1833.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That each county within this territory now organized or that may be hereafter organized, be and the same is hereby declared one township, for all the purposes of carrying into effect the above recited acts, and that there shall be elected at the annual town meeting in each county three supervisors, who shall perform, in addition to the duties heretofore assigned them as a county board, the duties heretofore performed by the township board.

SECTION 2. There shall also be elected in each county, one township clerk, who shall in addition to the duties heretofore performed by him, perform the duties of clerk to the board of supervisors.

SECTION 3. *Be it further enacted,* That section eight of the act, entitled an act to regulate highways, approved April 17th, 1833, is hereby so far amended that no person who shall be assessed to work any number of days on any highway, shall be allowed to commute for the same at a less sum than one dollar and twenty five cents for each day he shall be so assessed.

P. H. ENGLE,

*Speaker of the house of representatives.*

HENRY S. BAIRD,

*President of the council.*

H. DODGE.

Approved Dec. 6, 1836.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 64.

AN ACT DIVIDING THE COUNTY OF DES MOINES INTO SEVERAL NEW COUNTIES.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the country included within the following limits, to wit: beginning at the most southern outlet of Skunk river, on the Mississippi; thence a northern direction passing through the grove on the head of the northern branch of Lost Creek, and thence to a point corresponding with the range line dividing range seven and eight, and thence south with said line to the Des Moines river; thence down the middle of the same to the Mississippi, and thence up the Mississippi to the place of beginning, be and the same is hereby set off into a separate county, by the name of Lee.

SECTION 2. *Be it further enacted,* That the country included within the following boundaries, to wit: beginning at the north-west corner of Lee; thence south with the west line of said county to the river Des Moines; thence up the same to where the Missouri line strikes the same; thence west with the said Missouri line to the Indian boundary line; thence north with the said boundary line twenty-four miles; thence east to the beginning; be and the same is hereby set off into a separate county, by the name of Van Buren.

SECTION 3. *Be it further enacted,* That the country included within the following limits, to wit: beginning on the Mississippi river, at the north-east corner of Lee; thence up said river to a point fifteen miles above the town of Burlington, on the bank of said river, thence on a westerly direction to a point on the dividing ridge between the Iowa river and Flint creek, being twenty miles on a due west line from the Mississippi river; thence a southerly direction, so as to intersect the northern boundary line of the county of Lee, at a point twenty miles on a straight line from the Mississippi river; thence east with the northerly line of the said county of Lee to the beginning, be and the same is hereby set off into a separate county, by the name of Des Moines.

SECTION 4. *Be it further enacted,* That the country included within the following limits, to wit: beginning at the south-west corner of Des Moines; thence north-west with the line of the said county of Van Buren to the Indian boundary line; thence north with the said boundary line twenty-four miles; thence south-east to the north-west corner of the county of Des Moines; thence south with the west line of the county of Des Moines to the beginning, be and the same is hereby set off into a separate county, by the name of Henry.

SECTION 5. *Be it further enacted,* That the country included within the following limits: beginning at the Mississippi river, at the north-east corner of Des Moines; thence up said river twelve miles above the mouth of Iowa; thence west to the Indian boundary line; thence with said boundary line, to the north-west corner of Henry and with the line of the same, to the north-west corner of the county of Des Moines; thence east with the line of the same county of Des Moines to the beginning, be and the same is hereby set off into a separate county, by the name of Louisa.

SECTION 6. *Be it further enacted,* That the country included within the following boundaries, to wit: beginning on the Mississippi river, at the north-east corner of the county of Louisa; thence up said river twenty-five miles on a straight line; thence west to the Indian boundary line; thence with said boundary line south to the north-west corner of the county of Louisa; thence east with the line of said county of Louisa, to the beginning, be and the same is hereby set off into a separate county, by the name of Musquitine.

SECTION 7. *Be it further enacted,* That the country included within the following boundaries, to wit: beginning on the Mississippi river, at the north-east corner of the county of Musquitine; thence up said river to the south-east corner of the county of Du Buque; thence with the line of the said county of Du Buque to the Indian boundary line; thence with said line south, to the north-west corner of the county of Musquitine; thence east with the said line of the said county

of Musquitine to the beginning, be and the same is hereby set off into a separate county, by the name of Cook.

SECTION 8. *Be it further enacted,* That the district court shall be held at the town of Madison, in the county of Lee, on the last Monday in March and on the last Monday in August in each year: in the town of Farmington, in the county of Van Buren, on the second Monday in April and the second Monday in September in each year; in the town of Mountpleasant, in the county of Henry, on the first Friday after the second Monday in April and September in each year; in the town of Wapello, in the county of Louisa, on the first Thursday after the third Monday in April and September in each year; in the town of Bloomington, in the county of Musquitine, on the fourth Monday in April and September in each year.

SECTION 9. *Be it further enacted,* That the county of Cook be and the same is hereby attached to the county of Musquitine, for all judicial purposes.

SECTION 10. *And be it further enacted,* That the proper authority of the several counties hereby established, so soon as the said counties shall become organized, shall liquidate and pay so much of the debt now due and unpaid by the present county of Des Moines, as may be their legal and equitable proportion of the same, according to the assessment value of the taxable property which shall be made therein.

SECTION 11. This act to be in force from and after its passage, and until the end of the next annual session of the legislative assembly, and no longer.

P. H. ENGLE,

*Speaker of the house of representatives.*

HENRY S. BAIRD,

*President of the council.*

H. DODGE.

Approved Dec. 7, 1836.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38, p. 76.*

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ASSESSMENT AND COLLECTION OF TERRITORIAL TAXES."

SECTION 1. The supervisors of each county in this territory are authorized and empowered to grant licenses in their respective counties for any time not less than one year for groceries, victualing houses, and ordinaries, with permission to sell spirituous liquors and wines by small measure, under such regulations and restrictions as they, or a majority of them, may deem expedient; and every person licensed as aforesaid, shall pay to the treasurer of the county in which the applicant lives, the sum of one hundred and eight dollars.

\* \* \* \* \*

SECTION 6. That all acts and parts of acts coming within the purview of this act, be and the same are hereby repealed.

SECTION 7. This act shall take effect and be in force from and after the first day of January next.

P. H. ENGLE,

*Speaker of the house of representatives.*

HENRY S. BAIRD,

*President of the council.*

H. DODGE.

Approved Dec. 9, 1836.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 113.

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AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY TREASURERS AND TO DEFINE THEIR DUTIES.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That there shall be elected at the time and place of electing county commissioners, a county treasurer, who shall, immediately on the receipt of a certificate notifying him of his election, give bond and security to the satisfaction of the board of commissioners, \* \*

SECTION 2. It shall be the duty of the treasurer to receive all moneys due and accruing to the county, to pay and disburse the same on orders drawn by the board of county commissioners of the proper county, attested by their clerk, and not otherwise. \* \* \* \*

SECTION 5. That the county treasurer shall have for his services, one and a half per centum for all moneys received, and one and a half per centum for all moneys paid out for the county, excepting however moneys arising from the sale of lots at county seats, in which case he shall receive no more than two per cent. for both receiving and paying out.

SECTION 6. In case of the death, resignation, removal from office, or removal from the county of any county treasurer, or the office becomes otherwise vacant, the board of county commissioners, or a majority thereof, are hereby authorized and required to appoint some suitable person to fill such vacancy.

SECTION 7. In all cases where any person is desirous of vending any species of merchandise in this territory which is not the product of said territory, it shall be the duty of such person so wishing to vend any such merchandize, to pay to the county treasurer the tax which may be laid on him by the board of county commissioners, under the provisions of the act for assessing and collecting the revenue, and shall take the treasurer's receipt therefor, which receipt such persons shall forthwith file with the clerk of the board of commissioners, who shall give such person a permit to sell and vend goods, wares and merchandize until the next regular session of the board of commissioners.

\* \* \* \* \*

SECTION 11. That from and after the organization of the first treasury under this act, all acts or parts of acts coming within the purview of this act are hereby repealed.

Approved, December 20, 1837.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38, p. 129.*

AN ACT TO ESTABLISH THE BOUNDARY LINES OF THE COUNTIES OF DUBUQUE, CLAYTON, JACKSON, BENTON, LYNN, JONES, CLINTON, JOHNSON, SCOTT, DELAWARE, BUCHANAN, CEDAR, FAYETTE AND KEOKUK; AND TO PROVIDE FOR THE LOCATION OF THE SEATS OF JUSTICE IN SAID COUNTIES, AND FOR OTHER PURPOSES.

SECTION 1. *Be it enacted by the council and house of representatives of Wisconsin territory,* That the country lying within the following limits, to wit: beginning at the point on the Mississippi river, where the fifth principal meridian intersects the same; thence running south on the said meridian line, to the line dividing townships ninety and ninety-one north; thence west, along said line to the line dividing ranges six and seven west; thence north, along the said line to the neutral ground; thence along the southern boundary of the said neutral ground to the Mississippi river; thence down the middle of the main channel of the said river to the place of beginning—shall be and the same is hereby constituted a separate county, to be called Clayton; and the seat of justice of said county is located and established at the town of Prairie La Port.

SECTION 2. The whole of the country lying west of the Mississippi and north of the southern boundary of the county of Clayton, extending westward to the western boundary of Wisconsin territory and not included within the proper limits of the said county of Clayton, as before described, shall for temporary purposes be attached to, and in all respects be considered a part of the county of Clayton, and be called Fayette.

SECTION 3. The boundary lines of the county of Dubuque are hereby established as follows: beginning at a point in the main channel of the Mississippi river, where the fifth principal meridian intersects the same; thence south along the said meridian to the line dividing townships ninety and ninety-one north; thence west with the said line to the line dividing ranges two and three west, thence south along said range line to the line dividing townships eighty-six and eighty-seven; thence east along said line to the line dividing ranges

two and three east of the said meridian; thence north along said range line to the line dividing townships eighty-seven and eighty-eight north; thence east along said line to the middle of the main channel of the Mississippi river; thence north with the main channel of said river to the place of beginning; and the seat of justice of said county is hereby established at the town of Dubuque.

SECTION 4. All the country lying within the following limits, to wit: beginning at the northwest corner of Dubuque county; thence west along the line dividing townships ninety and ninety-one north, to the line dividing ranges six and seven west; thence south along said range line to the line dividing townships eighty-six and eighty-seven north; thence east along said line to the line dividing ranges two and three west of the principal meridian; thence north to the place of beginning—shall be, and the same is hereby constituted a separate county to be called Delaware.

SECTION 5. All the country lying west of the county of Delaware and between the line dividing townships eighty-six and eighty-seven, and the line dividing townships ninety and ninety-one north, extended to the western boundary of the territory shall be, and the same is hereby constituted a separate county, to be called Buchanan.

SECTION 6. The counties of Delaware and Buchanan shall, for temporary purposes, be considered in all respects a part of the county of Dubuque.

SECTION 7. All the country lying within the limits following: beginning at the south east corner of Dubuque county and running with said southern boundary to the fifth principal meridian; thence south along said meridian to the line dividing townships eighty-three and eighty-four; thence east along said line to the middle of the main channel of the Mississippi; thence north with the said channel to the place of beginning; shall be and is hereby constituted a separate county, to be called Jackson; and the seat of justice for said county is located at the town of Bellevue.

SECTION 8. All the country lying within the following limits, to wit: beginning at the north west corner of Jackson county; thence west with the southern boundaries of Dubuque and Delaware counties, to the range line dividing four and five west; thence south along said range line to the line dividing townships eighty-two and eighty-three north; thence east with said line to the fifth principal meridian; thence north to the place of beginning: shall be and the same is hereby constituted a separate county to be called Jones.

SECTION 9. All the country lying within the following limits, to wit: beginning at the northwest corner of Jones county; thence west along the southern boundary of Delaware and Buchanan counties to the line dividing ranges eight and nine west; thence south with the said range line to the line dividing townships eighty-one and eighty-two north; thence east along said township line to the line dividing four and five west; thence north along said line to the place of beginning; shall be, and the same is hereby constituted a separate county, to be called Linn.

SECTION 10. All the country lying west of the county of Linn and between the line dividing townships eighty-one and eighty-two north, and the line dividing townships eighty-six and eighty-seven, extended to the western boundary of the territory, shall be and the same is hereby constituted a separate county, to be called Benton.

SECTION 11. The counties of Jones, Linn and Benton shall, for temporary purposes, be attached to and be considered in all respects a part of the county of Jackson.

SECTION 12. All the country lying within the following limits, to wit: beginning at the southeast corner of the county of Jackson; thence west with the southern boundary of said county of Jackson, to the fifth principal meridian; thence south along said meridian to the line dividing townships eighty and eighty-one north; thence east along said line to where it intersects the Wabasipinica river; thence down the main channel of said river to its mouth; thence due east to the main channel

of the Mississippi river; thence up with the said channel to the place of beginning, shall be and the same is hereby constituted a separate county, to be called Clinton.

SECTION 13. All the country lying [within] the following limits, to wit: beginning at the southeast corner of Jones county; thence west with the southern boundary of the said county of Jones to the line dividing ranges four and five west; thence south with said line to the line dividing townships seventy-eight and seventy-nine north; thence east to the fifth principal meridian; thence north with said meridian to the place of beginning, shall be and the same is hereby constituted a separate county, to be called Cedar; and the seat of justice is located and established at Rochester.

SECTION 14. All the country lying within the following limits, to wit: beginning at the southeast corner of Linn county; thence west, with the southern boundary of said county of Linn, to the line dividing ranges eight and nine west; thence south to the line dividing townships seventy-six and seventy-seven north; thence east with said township line to the line dividing ranges four and five, west of the fifth principal meridian; thence with said range line, north to the place of beginning; shall be, and the same is hereby constituted a separate county, to be called Johnson.

SECTION 15. All the country lying west of the county of Johnson, and between the line dividing townships seventy-six and seventy-seven and the line dividing townships eighty-one and eighty-two north, extended to the western boundary of the territory, shall be and the same is hereby constituted a separate county, to be called Keokuk.

SECTION 16. The counties of Johnson and Keokuk shall for temporary purposes, be attached to and considered in all respects a part of the county of Cedar.

SECTION 17. All the country lying within the following limits, to wit: beginning at a point in the middle of the main channel of the Mississippi river where the line dividing ranges one and two, east of the fifth principal meridian intersects the

same; thence north with said range line to the line dividing townships seventy-eight and seventy-nine north; thence west with said line to the fifth principal meridian; thence north with said meridian to the line dividing townships eighty and eighty-one north; thence east with said line to a point where the said line intersects or crosses the Wabasipinica river; thence down the middle of the main channel of said river to its mouth; thence due east to the middle of the main channel of the Mississippi river; thence down the said channel to the place of beginning; shall be and the same is hereby constituted a separate county, to be called Scott.

SECTION 18. That the seat of justice in the county of Scott shall, from and after the first day of April next, be established either at Davenport or Rockingham, as may be decided by the qualified voters of the said county, as is hereafter provided.

SECTION 19. That an election be held in the said county of Scott, on the third Monday of February, 1838, for the purpose of selecting one of the places named in the eighteenth section of this act, as the future seat of justice for the said county. The sheriff of said county shall cause at least twenty days' previous notice of the said election to be published in the newspaper printed at Dubuque, and on the day of election, polls shall be opened at each of the following places, viz: H. W. Higgins' hotel in Rockingham; John H. McGregor's hotel in Davenport; the house of J. A. Richards, at the house of E. Parkhurst in Parkhurst, at which the qualified voters of the said county may vote for either Davenport or Rockingham as the seat of justice of the county aforesaid. The said election shall be in all respects conducted, and the votes canvassed, in the same manner as in the case of elections for township and county officers, and the returns thereof shall be made and certified by the inspectors to the clerk of the district court of Dubuque county and certified by the said clerk to the governor of the territory. The place named in the eighteenth section of this act having the greatest number of

votes shall, from and after the third Monday of February next, be the seat of justice of said county; and upon the receipt of the returns of the said election, the governor of the territory shall issue his proclamation, declaring the result, and the place fixed by the vote of the people residing within the boundaries of Scott county, as the seat of justice thereof: *provided, however,* that nothing in this act shall be so construed as to authorize any person residing in any county attached to the county of Scott, to vote at the election for the seat of justice aforesaid.

SECTION 20. The county of Clinton shall, until otherwise directed by law, be attached to and in all respects considered a part of the county of Scott.

SECTION 21. The proper authorities of the several counties hereby established, so soon as the said counties shall become organized, shall liquidate and pay so much of the debt now due and unpaid by the present county of Dubuque, as may be their legal and equitable proportion of the same, according to the assessment value of the taxable property, which shall be made therein.

SECTION 22. The sheriff of Dubuque county is hereby authorized and shall proceed to collect the taxes now due and assessed in the original county of Dubuque, in the same manner as if the county had not been divided, any thing in any other law to the contrary notwithstanding.

SECTION 23. All suits, prosecutions and other matters which are now, or may be commenced before the first day of March, 1838, in the district court of the county of Dubuque, or before any justice of the peace of said original county of Dubuque, shall be prosecuted to final judgment and execution before the same courts and in the same county as they would have been if this act had not been passed; and the same proceedings shall be had in all such suits, prosecutions and other matters, as would have been had if this act had not been passed.

SECTION 24. That for the purpose of locating the seat of justice in the county of Clinton, the sheriff of said county

shall conform with the provisions of the 19th section of this act, as respects notice of elections, the day of election and the qualified voters residing within the limits of Clinton county, as established by this act, shall meet on the day mentioned in the said 19th section, at such places as the sheriff shall direct, and vote for the towns of Lyons and Camanche, and the town having the greatest number of votes, shall be the seat of justice for said county of Clinton.

Approved, Dec. 21, 1837.

—*Reprinted from Laws of the Territory of Wisconsin, 1836-38, p. 132.*

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AN ACT ORGANIZING A BOARD OF COUNTY COMMISSIONERS IN EACH COUNTY IN THIS TERRITORY.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That there shall be and hereby is organized in each county in this territory, a board of county commissioners for transacting county business, to consist of three qualified electors, any two of whom shall be competent to do business, to be elected by the qualified electors of the several counties respectively. The first election shall take place on the first Monday in March next; and thereafter the election shall be at the time and places of the general election of each county.

SECTION 2. At the first election in pursuance of this act, the person having the highest number of votes shall serve three years; the person having the next highest number of votes shall serve two years; and the person having the next highest number of votes shall serve one year; and thereafter, annually, one commissioner shall be elected, who shall serve three years; and each commissioner elected according to the provisions of this act, shall continue in office until his successor is elected and qualified. But if two or more persons shall have an equal number of votes as above, their grade shall be

determined by lot by the clerk, in the presence and under the direction of the sheriff of their respective counties.

SECTION 3. Each person elected as a commissioner shall, on receiving a certificate of his election, take an oath, faithfully and impartially to discharge the duties of his office as such commissioner, before some person legally authorized to administer the same, which oath being certified on the back of such certificate, under the hand and seal of the person administering the same, shall be sufficient authority for such commissioner to take his seat with, and act as a member of the board during the time for which he was elected.

SECTION 4. The county commissioners thus elected and qualified shall be considered a body corporate and politic, by and under the name and style of "the board of commissioners of the county of" (naming the county,) and as such by and under such name and style, may sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto in any court, either in law or equity, and do and transact all business on behalf of their respective counties that may be assigned them from time to time by law. And in all cases where their respective counties may have been injured in their goods, chattels, lands, tenements, rights, credits, effects or contracts, such commissioners shall and may, by and under their corporate name and style, without setting out their individual names, bring any suit or suits, action or actions, either in law or equity, which may be best calculated to obtain redress for any such injury in the same way and manner that private individuals might or could do; and may in like way and manner, by and under their corporate name and style, be sued by any person or persons having any manner of claims against such county.

SECTION 5. The board of commissioners shall meet at the court house in each and every county, for the purpose aforesaid, or at the usual place of holding the district court in such county, on the first Mondays in April, July, October and January in each and every year, and may sit six days at each

term, if the business of the county shall require it: *provided, however,* if the district court shall meet on any of the before mentioned days, the commissioners shall meet on the Monday preceding.

SECTION 6. The said board of commissioners shall appoint a clerk who shall attend the meeting of the board of commissioners, and keep a record of their proceedings, and do such other business as he shall be required by law to do. And the sheriff of the county shall also, by himself or deputy, attend said board and execute their orders.

SECTION 7. When money has been advanced by any clerk or other county officer for the use and benefit of his county, pursuant to the requisitions of law, the board of commissioners shall order such money so advanced to be first paid; and when there is any judgment or judgments against any county in the territory, the board may, in their discretion, order when and in what manner such judgment shall be discharged, not inconsistent with the constitution of the United States, any law to the contrary notwithstanding.

SECTION 8. When two only of the members shall be present at the meeting of the board, and a division shall take place on any question, it shall be continued until the next meeting, before it shall be finally determined. When any vacancy shall happen in the office of commissioner, the clerk being notified of the same, shall immediately direct the sheriff of the county, whose duty it shall be to order an election to be holden, for the purpose of filling such vacancy, thirty days previous notice of such election being first given, either by publishing the same in the county newspaper, or putting up notices in three different public places in said county.

SECTION 9. It shall be the duty of the board of commissioners, at their April session, in each year, to receive and inspect the assessors' books, and levy a county tax, according to law; and cause their clerk to make out a duplicate, for collection, accordingly.

**SECTION 10.** The commissioners of each county, respectively, shall have and use a common seal, for the purpose of sealing their proceedings; and copies of the same, when signed and sealed, by said commissioners, and attested by their clerk, shall be good evidence of such proceedings, on the trial of any cause, in any court in this territory. The commissioners aforesaid, at their session in January, or when the district term prevents their meeting in January, then at their first meeting thereafter, in every year, shall make a fair and accurate statement of the receipts and expenditures of the preceding year, and have the same set up at the court house door, and at two other public places in their county, respectively, and published in some newspaper in their county, if there be any. And if the said commissioners, or either of them, after accepting their appointment, shall neglect or refuse to do his or their duty, in office, he or they so offending, shall, on conviction by indictment before the district court of the proper county, be fined in any sum not exceeding two hundred dollars.

**SECTION 11.** That all the duties, heretofore required of the board doing county business in the several counties in this territory, and not included or otherwise directed in this act, be and the same is hereby made the duty of said commissioners, to do and perform, in the same manner as though it was named in this act.

**SECTION 12.** The commissioners so elected and qualified, shall receive three dollars per day for each and every day that they may necessarily be employed in transacting the county business; and said board of commissioners, when organized, shall possess the powers and authority, heretofore given to the county board of supervisors.

**SECTION 13.** All suits, pleas, complaints, prosecutions and proceedings, which may be pending in any court, to be tried for or against any board of supervisors, previous to the taking effect of this act, shall be prosecuted to a final judgment and execution, in the same name and manner, as the same might

have been done had this law not been passed; and all contracts, either written or verbal, made by such board of supervisors, previous to the taking effect of this act, shall remain valid in law and equity, and suit may be thereupon brought, in the same way and manner, as the same might have been, had this act not been passed, with the difference, that the corporate name of the commissioners shall be used, instead of the board of supervisors.

SECTION 14. It shall be the duty of the clerks of the several boards of commissioners, to keep fair books, wherein shall be kept the accounts of the county, to attest all orders issued by the board for the payment of money, and enter the same in numerical order, in a book to be kept for that purpose; and shall copy into their said books the reports of the treasurer of the receipts and disbursements of their respective counties; and whenever the duplicate shall be put into the hands of the collector, it shall be the duty of the said clerks to send a statement of the sum wherewith such collector stands charged, to the county treasurer.

SECTION 15. When the holder of an attested county order in his own name, of a larger amount than his county tax, is desirous of appropriating a part of such order to the payment of such tax, he is hereby authorized to apply to the clerk of the board of commissioners, whose duty it shall be to give to the holder of such order, and in exchange therefor, two or more attested county orders, making together the same amount with the original order, which shall be thereupon cancelled. And such clerk shall insert in every such order, that the same, with others, were so given in exchange to (name the person) for such original order, together with the number and amount of such original order, one of which orders shall be for the amount of his tax, and shall appear on its face to have been intended for the payment thereof.

SECTION 16. Every collector of county taxes is hereby required to receive any regularly attested county order made by the board of commissioners, when the same may be ten-

dered to him by any person in payment of such person's taxes due such county.

SECTION 17. No collector or other person doing county business, shall, either directly or indirectly, purchase or receive in payment, exchange, or in any way whatever, any demand against his county or any county order for a claim allowed by the board of commissioners, at any time during the period for which he may be elected, for a less amount than that expressed on the face of such order or demand against the county; and every person elected or appointed to do county business, before entering upon the duties of his office, shall take an oath not to violate the provisions of this section. And any collector or other person doing county business offending against the provisions of this section, on conviction thereof upon indictment or presentment, shall be fined for every such offence in any sum not exceeding five hundred dollars.

SECTION 18. The boards of commissioners shall annually allow their clerk such compensation per day as they may deem reasonable, not to exceed three dollars while in session; and likewise to the sheriff, one dollar and fifty cents per day for his attendance upon the board; and further, that the board of commissioners may allow the clerk and sheriff any sum they may deem reasonable for extra services, not exceeding seventy-five dollars to each per annum.

SECTION 19. From all the decisions of the several boards of commissioners there shall be allowed an appeal to the district court by any person or persons aggrieved; and the person or persons appealing shall take the same within thirty days after such decision, by giving bond, with the security to the acceptance of the clerk of said board, conditioned for the faithful prosecution of such appeal and the payment of costs already accrued and which may thereafter accrue, if the same shall be adjudged by the said court to be paid by such appellant; and the clerk shall record such appeal, with the cases pending in the district court within twenty days after the taking of such appeal.

SECTION 20. In any county where there is no court house

provided, it shall be the duty of the board of commissioners to provide suitable rooms for the holding of the district court in said county.

SECTION 21. It shall be the duty of the board of commissioners to provide all books and stationery necessary for the use of said board, all books and stationery necessary for the use of the register of deeds, and all books and stationery necessary for the use of the clerk of the district court, the probate court and treasurer.

SECTION 22. The said board of commissioners are hereby authorized to hold extra sessions in case they may think the business of the county requires the same; and notice from any two of the said commissioners to the third, shall be considered a sufficient call for said extra session, due notice thereof being given, and that no such extra session shall exceed three days.

SECTION 23. That the board of supervisors heretofore existing in the several counties in this territory shall, upon the first meeting of said commissioners upon demand, deliver over to them all books, papers, accounts and demands, of whatever nature, belonging to said county, and upon failure so to do, may be indicted for misdemeanor in office.

SECTION 24. That all acts or parts of acts contravening any of the provisions of this act shall, from and after the first organization of the board of county commissioners, in the several counties under the provisions of this act, be, and the same are hereby repealed and of no effect.

Approved December 20, 1837.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38, p. 138.*

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AN ACT FOR THE RELIEF OF THE POOR.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the board of county commissioners, of the several counties of this territory,

shall be, and they are hereby vested, with entire and exclusive superintendence of the poor in their respective counties.

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**SECTION 10.** The board of county commissioners of any county in this territory, may if they think proper, cause to be built or procured in their respective counties, work-houses for the accommodation and employment of such paupers, as may from time to time become a county charge; and said work-house, and pauper, shall be under such rules and regulations as said board of commissioners may deem proper and just;

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**SECTION 11.** That from and after the first organization of the first board of county commissioners, in the several counties in this territory, all acts and parts of acts, contravening any of the provisions of this act, are hereby repealed and of no effect.

Approved Jan. 3, 1838.

—*Reprinted from Laws of the Territory of Wisconsin, 1836-38, p. 178.*

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**AN ACT TO AUTHORIZE THE SEVERAL COUNTIES IN THIS TERRITORY, TO HOLD AND CONVEY REAL ESTATE, TO SUE AND BE SUED, AND FOR OTHER PURPOSES.**

**SECTION 1.** *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That all deeds, grants and conveyances heretofore made, or which shall hereafter be made and duly acknowledged and recorded, as other deeds conveying any lands, tenements or hereditaments to any county, or the inhabitants of any county, and their successors, or to the county commissioners, or to the governor or to any other person or persons, by whatever form of conveyance, for the use and benefit of any county, shall be good and valid to all intents and purposes, to vest in such county in fee simple or otherwise all such right, title, interest and estate as the grantor or grantors in any such deed or conveyance, had at

the time of the execution thereof, in the lands conveyed, and was intended thereby to be conveyed.

SECTION 2. The county commissioners may by their order to be entered on their records, appoint a commissioner to sell and dispose of any real estate of their county; and the deed of such commissioner under his proper hand and seal for and in behalf of such county, duly acknowledged and recorded, shall be sufficient to all intents and purposes, to convey to the purchaser or purchasers, all the right, title, interest and estate whatever which the county may then have in and to the premises so to be conveyed.

SECTION 3. All notes, bills, bonds, contracts, covenants, agreements or writings, made or to be made, whereby any person or persons, is, are, or shall be bound, to any county or the inhabitants thereof, or the county commissioners, or to the governor, or any person or persons, in whatever form, for the payment of money, or any debt or duty, or the performance of any matter or thing, to the use of the county, shall be valid and effectual to all intents and purposes, to vest in the said county, all the rights, interests and actions which should be vested in any individual, if any such contract had been made directly to him. Suits may be commenced, sued or prosecuted thereon in the name of the said county, as is provided in the first section of this act, or in the name of the persons to whom they are made, to the use of the county, as fully and effectually, to all intents and purposes, as any person may or can upon like notes, bills, bonds, contracts, agreements or writings, made to him.

SECTION 4. The county commissioners may appoint an agent or agents to make any contract or contracts on behalf of such county, for erecting any county buildings, or for any purpose authorized by law. The contracts of such agent or agents duly executed for and on behalf of such county, shall be valid to all intents and purposes.

SECTION 5. All actions, local or transitory, against any county may be commenced and prosecuted to final judgment

and execution in the district court of the county against which the action is brought. Any action, local or transitory, in which any county shall be plaintiff may be commenced and prosecuted to final judgment in the county in which the defendant in such action resides. When any action shall be commenced against any county, copy of the summons shall be left with the clerk of the board of commissioners either during their session or so that a term of said session shall intervene between the day of leaving a copy of such summons and the return day thereof. There shall always be ten days between the service and return of every such summons, in all actions brought by or against every county. The inhabitants of the county so suing, or being sued, may be jurors or witnesses if otherwise competent or qualified according to law.

SECTION 6. *And be it further enacted,* That from and after the first organization of the board of commissioners in the several counties in this territory, all acts and parts of acts contravening any of the provisions of this act are hereby repealed; *provided*, that this act shall not effect any contract or right which may have accrued to, or against any county before the passage of this act. And all actions and suits shall be conducted in the same manner to final judgment on the said rights and contracts, as if this act had not been passed.

Approved Jan. 8, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 193.

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AN ACT TO AUTHORIZE THE BOARDS OF COUNTY COMMISSIONERS OF THE SEVERAL COUNTIES IN THIS TERRITORY TO BORROW MONEY FOR THE PURPOSE OF ERECTING COURT HOUSES AND JAILS.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the boards of county commissioners, of the several counties in this territory,

be, and they are hereby authorized to borrow, on the credit of their respective counties, at any interest not exceeding seven per centum per annum, such sum or sums of money as may be necessary for the erection, at the county seats of the several counties, a court house, jail, and fire proof offices; which buildings shall be erected under the superintendence of the board of county commissioners of the respective counties.

SECTION 2. *Be it further enacted,* That the money so borrowed shall be redeemable at any time not exceeding fifteen years, (as the parties may agree upon at the time of the borrowing of any money,) from the receipt of said money, and shall be paid out of any moneys in the treasuries of the respective counties, not otherwise appropriated. And should there not be money in the treasury of any county, sufficient for that purpose, the board of said county are hereby authorized to levy, and cause to be collected, a tax or series of taxes, for that purpose, with the interest thereon: *provided* that the interest shall be annually paid.

*It is further provided,* That there shall be no liability, for the payment of the principal sum so borrowed, except upon the proper county for whose use it was borrowed, and upon such other county as may be attached to the same, at the time the debt becomes due.

SECTION 3. This act to be in full force, and take effect from and after the first day of May next.

Approved January 15, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 225.

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AN ACT TO PROVIDE FOR THE APPOINTING OF JUSTICES OF THE PEACE, TO PRESCRIBE THEIR POWERS AND DUTIES, AND TO REGULATE THEIR PROCEEDINGS.

SECTION 1. *Be it enacted by the council and house of representatives of Wisconsin territory, as follows:* There shall be

appointed in each of the organized counties of this territory, as many justices of the peace as, in the opinion of the governor, the public good and the wants of the people may require, and whose term of service shall continue four years unless sooner removed by the governor.

SECTION 2. No clerk of the district court, or his deputy, shall hold or exercise the office of justice of the peace.

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SECTION 5. No person shall be appointed to the office of justice of the peace, who is not a citizen of the United States and who shall not have been an inhabitant of this territory twelve months, and of the county for which he is appointed six months before his appointment.

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SECTION 7. When a county shall be divided, any justice of the peace of the original county, who shall fall into the new county, shall continue to discharge the duties of justice of the peace in such new county until his commission expires as if the county had not been divided.

SECTION 8. Justices of the peace shall have power and jurisdiction throughout their respective counties, as follows:

1st. Jointly and severally to cause to be kept all laws made for the preservation of the peace.

2d. To cause to come before them, or any of them, persons who shall break the peace, and commit them to jail or bail them as the case may require.

3d. To arrest and cause to come before them, persons who attempt to break the peace, or who are not of good fame, and compel them to give security for their good behavior to keep the peace or both.

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#### OF THE JURISDICTION OF THE JUSTICES OF THE PEACE, AND AUTHORIZING THEM TO HOLD A COURT.

SECTION 1. Every justice of the peace is authorized to hold a court, for the trial of all actions in the following section

enumerated, and to hear, try and determine the same, according to law and equity.

SECTION 2. 1st. Of all actions of debt, covenant, and assumpsit, and all other actions founded on contract, where the debt or balance due, or damages claimed, exclusive of interest, shall not exceed fifty dollars.

2d. Actions of trespass and trespass on the case, for injuries to persons or to real or personal property, wherein the damage claimed shall not exceed fifty dollars.

3d. Actions of detinue and replevin, when the thing demanded or claimed, does not exceed in value fifty dollars.

4th. Actions commenced by attachment of property, as hereinafter provided, as well as for any penalty given by any statute of this territory, when the amount shall not exceed fifty dollars, and

5th. To take and enter judgment on the confession of a defendant, when the amount confessed shall not exceed the amount for which a justice is authorized to render judgment in action.

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SECTION 4. No justice of the peace shall have cognizance:

1st. Against any executor or administrator, for any debt or demand due from the testator or intestate; nor

2d. Of any action of slander, malicious prosecution or false imprisonment, nor

3d. Of any action, where the title to lands and tenements shall come in question.

SECTION 5. Every justice of the peace shall have jurisdiction co-extensive with the county for which he is appointed.

\* \* \* \* \*

Approved January 17, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 309.

AN ACT TO REGULATE AND DEFINE THE DUTIES OF THE COUNTY OFFICERS IN THIS TERRITORY.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the sheriff or under sheriff, of the several counties in this territory, be, and they are hereby required, to reside or hold their offices at the county seat, in their respective counties, or at the place where the district court is usually held.

SECTION 2. That the clerks or their deputies, of the several district courts in this territory, shall reside and hold their offices at the seat of justice in their respective counties, or at the place where the district court is usually held.

SECTION 3. That if any suits should be lost or thrown out of court in consequence of neglect or carelessness of any clerk or his deputy, said clerk shall be liable to the party losing the same, with all costs and damages that may accrue, in consequence of such negligence, before any court having jurisdiction of the same.

SECTION 4. That the judges of probate, the register of deeds, and the county treasurers in the several counties in this territory, shall keep their offices at the county seat, in their respective counties, or at the place where the district court is usually held.

SECTION 5. That the clerk or his deputy of the board of county commissioners, in the several counties in this territory, shall reside at the county seat in their respective counties or at the place where the county commissioners usually transact business.

SECTION 6. That if any of said officers fail to comply with the provisions of this act, on conviction thereof, before any justice of the peace of the proper county, he shall be fined in a sum not to exceed fifty dollars for every such offense.

SECTION 7. This act to take effect from and after the first Monday in April next.

Approved Jan. 17, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 370.

AN ACT TO ESTABLISH THE BOUNDARIES OF THE COUNTIES OF LEE, VAN BUREN, DES MOINES, HENRY, LOUISA, MUSCATINE, AND SLAUGHTER; TO LOCATE THE SEATS OF JUSTICE IN SAID COUNTIES, AND FOR OTHER PURPOSES.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the boundaries of Lee county, shall be as follows, to wit: beginning at the main channel of the Mississippi river, due east from the entrance of Skunk river, into the same, thence up said river, to where the township line, dividing townships sixty-eight and sixty-nine north, leaves said river; thence with said line, to the range line between ranges four and five, west; thence north with said line, to the township line, between townships sixty-nine and seventy north; thence west, with said line, to the range line between ranges seven and eight west; thence south with said line, to the Des Moines river; thence down said river, to the middle of the main channel of the Mississippi river; thence up the same to the place of beginning; and the seat of justice is hereby established at the town of Fort Madison.

SECTION 2. The boundaries of the county of Van Buren shall be as follows, to wit: beginning on the Des Moines river, where the range line between ranges seven and eight, intersects said river; thence north, with said line to the township line, dividing townships seventy and seventy-one north; thence west with said line, to the range line between ranges eleven and twelve west; thence south, with said line, to the northern line of Missouri; thence east with said line, to the Des Moines river; thence down said river to the place of beginning; and the seat of justice of said county is hereby retained at the town of Farmington, until it may be changed as hereinafter provided.

\* \* \* \* \*

SECTION 3. The boundaries of Des Moines county shall be as follows, to wit: beginning at the northeast corner of Lee county; thence west with the northern line of said county,

to the range line between ranges four and five west; thence north with said line, to the township line dividing townships seventy-two and seventy-three north; thence east with said line, to the middle of the main channel of the Mississippi river; thence down the same to the place of beginning; and the seat of justice of said county is hereby established at the town of Burlington.

SECTION 4. The boundaries of Henry county shall be as follows, to wit: beginning on the range line between ranges four and five west, where the township line dividing townships seventy-three and seventy-four north intersects said line; thence west with said line to the range line between ranges eight and nine; thence south with said line to the township line dividing townships seventy and seventy-one north; thence east with said line to the range line between ranges seven and eight west; thence south with said line to the township line dividing townships sixty-nine and seventy north; thence east with said line to the range line between ranges four and five west; thence north with said line to the place of beginning; and the seat of justice of said county is hereby established at the town of Mount Pleasant; and all the territory west of Henry is hereby attached to the same for judicial purposes.

SECTION 5. The boundaries of Louisa county shall be as follows, to wit: beginning at the northeast corner of Des Moines county, thence west to the northwest corner of said county; thence north with the range line between ranges four and five west to the township line dividing townships seventy-five and seventy-six north; thence east with said line to the Mississippi river; thence down the same to the place of beginning; and the seat of justice of said county is hereby established at the town of Lower Wappello.

SECTION 6. The boundaries of Muscatine county shall be as follows, to wit: beginning at the northeast corner of the county of Louisa; thence west with the northern line of said county to the range line between four and five west;

thence north with said line to the township line dividing townships seventy-eight and seventy-nine north; thence east with said line to the range line between ranges one and two east; thence south with said line to the Mississippi river; thence down the main channel of the said river to the place of beginning; and the seat of justice of said county is hereby established at the town of Bloomington.

SECTION 7. The county included within the following boundaries, to wit: beginning at the north-east corner of the county of Henry; thence west to the north-west corner of the same; thence north to the township line dividing townships seventy-six and seventy-seven north; thence east with the said line to the line between ranges four and five west; thence south with the said line to the place of beginning; is hereby set off into a separate county by the name of Slaughter; and the seat of justice of said county is hereby established at the town of Astoria; and all the territory west is hereby attached to the county of Slaughter for judicial purposes.

SECTION 8. That the several counties hereby established, shall liquidate and pay so much of the debt as was due and unpaid by the original county of Desmoines, on the first day of December eighteen hundred and thirty-six, as may be their legal and equitable proportion of the same, according to the assessment value of the taxable property therein.

Approved Jan. 18, 1838.

—*Reprinted from Laws of the Territory of Wisconsin,  
1836-38, p. 381.*

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AN ACT FOR ASSESSING AND COLLECTING COUNTY REVENUE.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That for the purpose of raising a revenue for county purposes, the board of county commissioners shall levy a tax, etc. \* \* \*

SECTION 3. *And further,* That at the time and place of holding the election for county commissioners, there shall be

elected one assessor, for each county, who shall be a qualified elector, and whose term of office shall be one year, and until his successor is duly elected and qualified. \* \* \*

SECTION 16. *And be it further enacted,* That the sheriffs of the several counties shall collect the county revenue, and pay over to the county treasurer, all such sums collected, and take his receipt therefor, which receipt shall be a sufficient voucher, for the board of commissioners to cancel the amount of such assessment roll standing charged against said collector, on the books of said board of commissioners.

\* \* \* \* \*

SECTION 52. *Be it further enacted,* That from and after the first organization of the board of county commissioners under the provisions of the act organizing boards of county commissioners, in the several counties in this territory, all acts and parts of acts contravening any of the provisions of this act, are hereby repealed and of no effect.

Approved January 18, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38, p. 384.*

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#### **AN ACT TO REGULATE FERRIES.**

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* \* \* \*

SECTION 2. The board of county commissioners in each of the counties in this territory shall grant licenses for keeping ferries in their respective counties, to as many suitable persons as they may think proper; which license shall continue in force for a time to be fixed by the board of commissioners, not exceeding three years. \* \* \*

SECTION 9. This act to take effect from and after the first organization of the board of county commissioners in the several counties of this territory.

Approved January 18, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38, p. 437.*

AN ACT TO AUTHORIZE THE APPOINTMENT OF PUBLIC ADMINISTRATORS, IN THE SEVERAL COUNTIES OF THIS TERRITORY AND PRESCRIBE THEIR DUTIES.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the governor of this territory shall appoint in each county of this territory, a suitable person, to be known and named the public administrator for such counties, respectively, whose office and duties shall be prescribed as follows.

SECTION 2. That when any person shall die intestate in any county in this territory, or when any person, a non-resident, shall die intestate, having goods and chattels, rights and credits, or either, in this territory, and no widow or next of kin, or creditor or creditors shall be living within this territory, administration of the goods and chattels rights and credits of such intestate shall be granted to the public administrator of the county in which such intestate died, or in which the goods and chattels, rights and credits shall be found, in case such intestate shall have been a non-resident, and his successors in office.

\* \* \* \* \*

Approved January 19, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 467.

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*Resolved, by the council and house of representatives of the territory of Wisconsin,* That the following entitled acts, selected from those now in force in this territory, be printed and published as an appendix to the pamphlet laws of the present session:

1. An act to authorize the board of supervisors to ascertain township lines in certain cases.

\* \* \* \* \*

9. An act to provide for the appointment of sheriffs and to define their powers.

\* \* \* \* \*

21. An act for establishing courts of probate.

\* \* \* \* \*

109. An act to lay off and organize the counties west of the Mississippi river.

110. An act to repeal an act giving justices of the peace jurisdiction in criminal cases, approved March 4th, 1831.

111. An act to amend an act entitled an act to provide for the assessment and collection of territorial taxes.

\* \* \* \* \*

115. An act to authorize justices of the peace and notaries public to administer oaths and declaring certain oaths already taken valid.

\* \* \* \* \*

117. An act concerning the powers of sheriffs and constables in certain cases.

\* \* \* \* \*

123. An act to amend an act entitled an act to establish certain courts in certain counties, and to define their powers and duties.

\* \* \* \* \*

Approved January 19, 1838.

*—Reprinted from Laws of the Territory of Wisconsin, 1836-38, p. 529.*

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**AN ACT TO RENDER LEGAL THE ACTS OF THE COUNTY COMMISSIONERS OF THE COUNTIES OF CLAYTON AND DU BUQUE.**

WHEREAS, by a law passed at the last session of the legislative assembly, it was made the duty of the sheriffs of several counties in this territory to give twenty days' notice of the election of the county commissioners, and whereas the sheriffs of the counties of Clayton and Du Buque neglected to give the proper notice of the election in the said counties respectively; therefore,

**SECTION 1.** *Be it enacted by the council and house of representatives of the territory of Wisconsin, That all acts and*

proceedings done and performed or hereafter to be done and performed by William D. Grant, Samuel H. K. M. Masters and Luther Patch, as county commissioners of the county of Clayton, and James Fanning, Peter O. Lorimer and A. Bankston as county commissioners for the county of Du Buque, in conformity with the existing laws of the territory of Wisconsin and of the United States, are hereby declared legal and valid, any irregularity or informality in the election of said county commissioners to the contrary notwithstanding.

Approved June 20, 1838.

—*Reprinted from Laws of the Territory of Wisconsin,  
1836-38, p. 537.*

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#### AN ACT CONCERNING THE COUNTY OF VAN BUREN.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That for the purpose of permanently establishing the seat of justice for the county of Van Buren, a poll shall be opened at the general election on the first Monday in August next, for the purpose of receiving ballots for such places as may be voted for as the seat of justice of said county, and said ballots shall be deposited in a separate box from the other ballots received at said election and separate poll books kept.

SECTION 2. Any person shall be entitled to vote for the seat of justice of said county at said election, who is a free white male citizen above the age of twenty-one years, and who has resided in the county at least thirty days next preceding the election.

SECTION 3. Returns of said election, with the ballots and poll lists shall within twenty days after the election be made to the sheriff of the county of Van Buren, to be by him canvassed and examined; and if upon examination it should be found that any one of the places voted for has a majority of the whole number of votes polled for a county seat, that place shall from thenceforward be the seat of justice of Van Buren

county; but if it shall be found that no one of the places voted for has such a majority, then a new election shall be held on the second Monday in September to be conducted in the same manner and by the same officers who conducted the election in August; at which said second election, the votes shall be confined to one or the other of the two points which may have received the highest number of votes at the first election. It shall be the duty of the sheriff to give at least ten days' notice of said second election, by written or printed hand bills put up at each election precinct, specifying the two points to be voted for and the day of holding the election. Returns of the second election shall be made as is provided for in regard to the returns of the first election and the place having the highest number of votes at said second election shall be the county seat of Van Buren county: *provided*, that the fall term of the district court of said county for the year eighteen hundred and thirty-eight shall be held at Farmington.

SECTION 4. Joseph Robbs, Isham Keith and John Crnes, elected county commissioners of Van Buren county at an election held on the fifth day of May, 1838, are hereby declared to be the commissioners of said county until the next August election, and until their successors are duly elected and qualified; and their acts, so far as they are conformable to law, otherwise are hereby declared to be valid from the time of their election and qualification. But at the general election on the first Monday in August next, votes shall be received for three county commissioners, and the person having the highest number of votes shall serve three years, the next highest two years, and the third highest one year, from the day of said election.

SECTION 5. All the territory lying west of the county of Van Buren, east of the Missouri river, and not included within the limits of any other county, is hereby attached to the county of Van Buren for judicial purposes.

Approved, June 22, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 539.

AN ACT ORGANIZING THE COUNTY OF JOHNSON AND ESTABLISHING THE SEAT OF JUSTICE OF SAID COUNTY.

SECTION I. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the county of Johnson be, and the same is hereby organized from and after the fourth day of July next, and the inhabitants of said county be entitled to all the rights and privileges to which by law the inhabitants of other organized counties of this territory are entitled to. And the said county shall continue to be a part of the second judicial district, and a district court shall be held at the town of Napoleon the seat of justice, at the court house, or such other place as may be provided. Two terms of the said district shall be held annually after the organization of said county, to wit: on the second Monday of August, and December; and the several acts concerning the district courts of said Wisconsin territory shall be and they are hereby made applicable to the district court of Johnson county. And the county of Keokuk shall be and is hereby attached to the said county of Johnson for judicial purposes.

Approved June 22, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 543.

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AN ACT TO LEGALIZE THE OFFICIAL ACTS OF JOHN C. ELLIS,  
SHERIFF OF THE COUNTY OF SLAUGHTER.

SECTION I. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the official acts of John C. Ellis, sheriff of the county of Slaughter in the territory of Wisconsin are hereby legalized and confirmed, and that they shall be of the same validity in every particular as though the said John C. Ellis had entered into his official bonds pursuant to law.

Approved June 22, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 547.

WHEREAS, By an act of the territory of Michigan, and which act was in force in the territory of Wisconsin, it was among other things required that justices of the peace should give bond with securities, and that the said bond should be approved by the treasurer of the county for which said justice should be appointed, and whereas, in some instances that part of the law requiring the treasurer's approval could not be complied with from the fact of the absence or from the total want of such officer, and whereas, the ends of justice could be obtained as well without as with such bond and the mere neglect or want of such approval could not vitiate or make unjust that which would be otherwise just and equitable; therefore

*Be it enacted by the council and house of representatives of the territory of Wisconsin,* That hereafter no exceptions shall be taken or received in any court of law or of equity in this territory against any proceedings of any justice of the peace of this territory on account of not giving or having his bond approved of according to the provisions of the aforesaid act of Michigan, approved April 21, 1833, and all exceptions that may be taken and undetermined before the passage of this act shall be quashed and furthermore all acts, and proceedings of such justices, which may have been done according to the laws of this territory and of the United States are hereby declared valid to all intents and purposes, as if such justice had qualified according to the act aforesaid.

Approved June 23, 1838.

—Reprinted from *Laws of the Territory of Wisconsin, 1836-38*, p. 559.

## NUMBER XVIII.

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The documentary material presented in this number is illustrative of the development of Local Government as reflected in the Laws of the Territory of Iowa, "enacted at the first session of the Legislative Assembly held at Burlington, A. D., 1838-'39," and at the regular session of the Legislative Assembly "commencing on the first Monday of November, A. D. 1839."

B. F. S.



LOCAL GOVERNMENT IN THE TERRITORY OF  
IOWA, 1838-39.AN ACT FOR THE ELECTION OF CONSTABLES, AND DEFINING  
THEIR DUTIES.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be elected, at each annual election in each organized county in this Territory, a number of constables equal to the number of magistrates appointed in each county in this Territory, who shall continue in office one year and until their successors are elected and duly qualified: *Provided*, that if a vacancy shall happen, the county commissioners may fill such vacancy by appointment.

SEC. 2. Every constable, before he enters upon the discharge of the duties of his said office, shall take the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will faithfully discharge the duties of constable within the county of — according to the best of my abilities, and that I will well and truly pay over to the proper person all monies which may come into my hands as such constable," which oath or affirmation shall be taken before any clerk or judge of the district court, or before a justice of the peace of said county, and the person administering such oath shall make out a certificate thereof and cause it to be filed in the office of the clerk of the board of county commissioners of the proper county.

SEC. 3. It shall be the duty of every constable previous to taking the oath aforesaid to execute to the acceptance of the board of county commissioners a bond with good and sufficient freehold security payable to the county treasurer, and his successors in office in the penal sum of five hundred dollars conditioned for the faithful performance and discharge of the duties of his office as constable, and for the safe keeping and paying over, according to law, to the proper person all sums of money that may come into his hands by virtue of his

said office, which bond shall be filed by the clerk of the board of county commissioners as aforesaid, for the benefit of each and every person, or persons, bodies politic or corporate, who may sustain injury by reason of the official conduct of such constable, which bond shall not be void on the first vacancy, but may be put in suit from time to time, at the instance, and for the benefit of any party injured, as often as the condition thereof may be broken.

SEC. 4. If any constable shall not within twenty days after receiving his certificate of election take the oath, and give bond as aforesaid, the said constable shall not be permitted after that time to be qualified or to take his said office, but the said office shall be considered as vacant, and shall be filled by the board of county commissioners as in this act provided.

SEC. 5. It shall be the duty of every constable to apprehend and bring to justice all felons and disturbers of the peace; to suppress all riots and unlawful assemblies and in other respects to keep the peace in the county wherein he shall have been elected, and also to serve and execute all warrants, writs, precepts and other process to him lawfully directed and in all respects to do and perform all things appertaining to the office of constable within this Territory.

Approved, January 24th, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 71.*

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AN ACT TO ESTABLISH THE BOUNDARIES OF LOUISA COUNTY,  
AND TO LOCATE THE SEAT OF JUSTICE OF THE SAID COUNTY,  
AND FOR OTHER PURPOSES.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the boundaries of Louisa county shall be as follows, to wit: beginning at the main channel of the Mississippi river on the line dividing

township seventy-two and seventy-three north, thence west on said township line to the line dividing Des Moines and Henry counties, thence north on said line to the line dividing township seventy-three and seventy-four north, thence west on said township line to the range line between five and six west, thence north with said line to the township line dividing townships seventy-six and seventy-seven north, thence east with said line to the line of Muscatine county, thence south with said county line to the line dividing townships seventy-five and seventy-six north, thence east on said township line to the Mississippi river, thence down the main channel of said river to the place of beginning.

SEC. 2. That for the purpose of permanently establishing the seat of justice for said county of Louisa, a poll shall be opened at the usual places of election in said county, on the first Monday of March next, for the purpose of receiving ballots for such places as may be voted for as the seat of justice of said county, and said ballots shall be deposited in a separate box from the other ballots which may be received at said election, and separate poll books kept.

SEC. 3. Any person shall be entitled to vote for the seat of justice of said county, at said election, who is a free white male citizen above the age of twenty-one years, and who has resided in the county at least thirty days next preceding the election.

SEC. 4. That returns of said election, with the ballots and poll lists, shall, within twenty days after the election, be made to the sheriff of the county of Louisa, to be by him canvassed and examined in presence of two justices of the peace of said county, and if upon examination it shall be found that any one of the places voted for has a majority of all the votes polled for a county seat, that place shall from thenceforward be the seat of justice for Louisa county; but if it should be found that no one of the places voted for has such a majority, then in that case a new election shall be held on the day of the next annual election thereafter, to be conducted in the same

way, and by the same officers who may conduct said annual or general election in said Louisa county, at which said election the votes shall be confined to one or the other of the two points which may have received the highest number of votes at the first election.

**SEC. 5.** It shall be the duty of the sheriff to give at least ten days notice of said second election by written or printed hand bills, put up at each precinct, specifying the two points to be voted for, and the day of holding such election.

**SEC. 6.** Returns of the second election shall be made as is provided for in regard to the returns of the first election, and the place having the highest number of votes at said second election shall be the county seat of Louisa county: *Provided*, that the spring term of the district court of said county, for the year eighteen hundred and thirty-nine, shall be held at Lower Wapello.

**SEC. 7.** *And be it further enacted,* That on the said first Monday of March next there shall be three county commissioners elected in said county of Louisa, whose term of service and whose proceedings shall be governed by the law of this Territory organizing a board of county commissioners &c: *Provided, however*, that the time from this special election until the time of the next general election shall be considered one year.

Approved, January 12, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1838-39*,  
p. 89.

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**AN ACT TO ORGANIZE THE COUNTY OF LINN, AND ESTABLISH THE SEAT OF JUSTICE THEREOF.**

**SEC. 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county of Linn be and the same is hereby organized from and after the first day of June next, and the inhabitants of said county be

entitled to all the rights and privileges to which by law the inhabitants of other organized counties of this Territory are entitled, and the said county shall be a part of the third judicial district, and the district court shall be held at the seat of justice of said county, or such other place as may be provided until the seat of justice is established.

SEC. 2. That Richard Knott, Lyman Dillon, and Benjamin Nye, be and they are hereby appointed commissioners to locate the seat of justice in said county, and shall meet at the house of William Abby, on the first Monday of March next, in said county, and shall proceed forthwith to examine and locate a suitable place for the seat of justice of said county, having particular reference to the convenience of the county and healthfulness of the location.

SEC. 3. The commissioners, or a majority of them, shall within ten days after their meeting at the aforesaid place, make out and certify to the governor of this Territory, under their hands and seals, a certificate containing a particular description of the situation of the location selected for the aforesaid county seat, and on the receipt of such certificate the governor shall issue his proclamation affirming and declaring the said location to be the seat of justice of said county of Linn.

Sec. 4. The commissioners aforesaid shall, before they enter upon their duties, severally take and subscribe an oath before some person legally authorized to administer the same, viz: I \_\_\_\_\_ do solemnly swear (or affirm) that I am not, either directly or indirectly, interested in the location of the seat of justice of Linn county, nor do I own any property in lands, or any claims, within the said county of Linn. So help me God.

Signed,

A. B.

C. D. &c.

SEC. 5. If at any time within one year thereafter it shall be shown that the said commissioners, or any of them, received any present, gratuity, fee, or reward, in any form other than

that allowed by law, or before the expiration of six months after the governor's proclamation declaring the said seat of justice permanent, become interested in said town, or any lands in its immediate vicinity, the commissioner or commissioners shall, upon conviction thereof, by indictment in the district court of the county in which he or they may reside, be guilty of a high misdemeanor, and be forever after disqualified to vote at any election, or to hold any office of trust or profit within this Territory.

SEC. 6. The commissioners aforesaid shall receive, upon making out their certificate of the location of the seat of justice of said county, each two dollars per day, and also three dollars for every twenty miles, going and returning from their respective homes.

Approved, January 15, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,*  
p. 91.

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AN ACT TO DIVIDE THE COUNTY OF HENRY, AND ESTABLISH  
THE COUNTY OF JEFFERSON.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all that tract of country lying west and attached to the county of Henry, viz: beginning at the south-east corner of township number seventy-one north, range eight west, thence north with said line to the line dividing townships seventy-three and seventy-four, thence west with said line to the Indian boundary line, thence south with said line to the line dividing townships seventy and seventy-one, thence east with said line to the place of beginning, be and the same is hereby constituted a separate county to be called *Jefferson*.

SEC. 2. That the said county of Jefferson shall, to all intents and purposes, be and remain an organized county, and invested with full power and authority to do and transact all

county business which any regularly organized county may of right do.

SEC. 3. That Samuel Hutton of the county of Henry, and Joshua Owens of the county of Lee, and Roger N. Crissup of the county of Van Buren, are hereby appointed commissioners to locate and establish the seat of justice of Jefferson county. The said commissioners shall meet in the town of Lockridge, on the first Monday in March next, to proceed to the duties required of them, or may meet on any other day they may agree on within one month thereafter, being first sworn by any judge or justice of the peace faithfully and impartially to examine the situation of said county, taking into consideration the future as well as the present population of said county, also to pay strict regard to the geographical centre, and to locate the seat of justice as near the centre as an eligible situation can be obtained; and so soon as they have come to a determination of the place where they shall locate it, it shall be the duty of said commissioners to name the place, so located by them, by such name as they may think proper, and shall commit the same to writing, signed by the commissioners, and filed with the clerk of the district court of the present county of *Henry*, whose duty it shall be to record the same, and deliver over the same to the clerk of the county of *Jefferson* whenever he shall be appointed, whose duty it shall be to record the same and forever keep it on file in his office, and the place thus designated shall be considered the seat of justice of said county.

SEC. 4. Provided, that in the event of said commissioners being prevented from any cause whatever from performing the duties required of them, or if a majority of said commissioners shall not be able to agree upon any place for the establishment of said seat of justice, then in that case the seat of justice is temporarily established at the house of Sylvanus Harrington.

SEC. 5. That the said commissioners shall receive, as a compensation for performing the duties required of them, the

sum of three dollars per day, to be paid out of the first moneys that may come into the treasury of said county of *Jefferson*.

SEC. 6. That there shall be an election held on the first Monday in April next, for the purpose of electing all county officers that may be elective, the same as in other organized counties.

SEC. 7. That it shall be the duty of the sheriff of said county to cause written notices to be put up at three of the most public places in each of the old precincts in said county of *Jefferson*, stating the time, place, and officers to be elected.

SEC. 8. That the county of *Jefferson* shall remain attached to the original county of *Henry* for judicial purposes until its officers are appointed and elected, and until said county is properly organized according to law in such cases made and provided.

SEC. 9. That this act shall be in force from and after its passage.

Approved, January 21, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1838-39*,  
p. 92.

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#### AN ACT TO ESTABLISH THE BOUNDARIES OF LEE COUNTY.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the boundaries of the county of Lee shall be as follows, to wit: beginning at the main channel of the Mississippi river, due east from the entrance of Skunk river into the same, thence up the main channel of the said Skunk river to where the township line, dividing township sixty-nine and seventy north, crosses the same, thence west with said township line to the range line between ranges seven and eight west, thence south with said line to the Des Moines river, thence down the main channel of said river to the middle of the main channel of the Mississippi river, thence up the main channel of the same to

the place of beginning; and all that part of Lee county, lying north of Skunk river, is hereby attached to and shall form a part of the county of Des Moines.

SEC. 2. *And be it further enacted,* That it shall be lawful for the sheriff of Des Moines county to collect the tax due for the year eighteen hundred and thirty-eight, from all persons detached from the county of Des Moines, and attached to the county of Lee, by the provisions of this act; and all laws, coming within the purview and meaning of this law, be and the same are hereby repealed.

Approved, January 23, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 94.*

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AN ACT TO ORGANIZE THE COUNTY OF JONES, AND ESTABLISH THE SEAT OF JUSTICE THEREOF.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county of Jones be, and the same is, hereby organized, from and after the first day of June next, and the inhabitants of said county be entitled to all the rights and privileges to which by law the inhabitants of other organized counties of this Territory are entitled; and the said county shall be a part of the third judicial district, and the district court shall be held at the seat of justice of said county, or such other place as may be provided until the seat of justice is established.

SEC. 2. That Simeon Gardner of Clinton county, Israel Mitchell of Linn county, and William H. Whitesides of Du Buque county, be and they are hereby appointed commissioners to locate the seat of justice in said county, and shall meet at the house of Thomas Dixon, on the second Monday of March next, in said county, and shall proceed forthwith to examine and locate a suitable place for the seat of justice of said county, having particular reference to the convenience of the county and healthfulness of the location.

SEC. 3. The commissioners, or a majority of them, shall, within ten days after their meeting at the aforesaid place, make out and certify to the governor of this Territory, under their hands and seals, a certificate containing a particular description of the location selected for the aforesaid county seat; and, on the receipt of such certificate, the governor shall issue his proclamation affirming and declaring the said location to be the seat of justice of said county of *Jones*.

SEC. 4. The commissioners aforesaid shall, before they enter upon their duties, severally take and subscribe an oath before some person legally authorized to administer the same, viz:

I, A. B. do solemnly swear (or affirm) that I am not, either directly or indirectly, interested in the location of the seat of justice of *Jones* county, nor do I own any property in lands, or any claims, within said county of *Jones*. So help me God.

Signed,

A. B.

SEC. 5. If at any time within one year thereafter it shall be shown that the said commissioners, or any of them, received any present, gratuity, fee, or reward, in any form other than that allowed by law, or before the expiration of six months after the governor's proclamation declaring the said seat of justice permanent, become interested in said town, or any lands in its immediate vicinity, the commissioner or commissioners shall, upon conviction thereof, by indictment in the district court of the county in which he or they may reside, be guilty of a high misdemeanor, and be forever after disqualified to vote at any election, or to hold any office of trust or profit within this Territory.

SEC. 6. The commissioners aforesaid shall receive, upon making out their certificate of the location of the seat of justice of said county, each three dollars per day, and also three dollars for every twenty miles, going to and returning from their respective homes.

SEC. 7. Upon the presentation of the certificate aforesaid to the treasurer of *Jones* county, the treasurer is hereby author-

ized and required to pay the respective sums allowed by this act, out of any monies in the treasury not otherwise appropriated.

Approved, January 24, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,*  
p. 95.

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AN ACT TO RE-Locate THE COUNTY SEAT OF VAN BUREN  
COUNTY, AND FOR OTHER PURPOSES.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That Benjamin F. Chastain of Jefferson county, Michael H. Walker of Lee county, and Stephen Gearhart of Des Moines county, be and they are hereby appointed commissioners to re-locate the county seat of Van Buren county, whose duty it shall be to meet (or a majority of them) at the town of Keosauqua, in said county, on the first Monday of May next, and proceed forthwith to locate a suitable place for the seat of justice of said county, having reference to the geographical centre, convenience, and welfare of said county.

SEC. 2. The commissioners, or a majority of them, shall, within ten days after their meeting at the aforesaid place, make out and certify to the clerk of the county commissioners for the county of Van Buren, under their hands and seals, a certificate containing a particular description of the situation of the location selected for the aforesaid county seat, together with the deed or deeds of any grant of land or lands, or bond or bonds for the payment of money, that may have been made by any individual or individuals for the benefit of the county.

SEC. 3. The commissioners aforesaid shall, before they enter upon their duties, severally take and subscribe an oath before some person legally authorized to administer the same, viz: I, A B do solemnly swear (or affirm) that I am not, either directly or indirectly, interested in the location of

the seat of justice of Van Buren county, nor do I own any property in lands or claims within the said county of Van Buren. So help me God.

[Signed.]

A. B.

SEC. 4. If it shall be shown at any time within one year that the said commissioners, or any of them, received any present, gratuity, fee, or reward, in any form other than that allowed by law, or, before the expiration of six months from the time said location was made, becomes interested in said town, or in any lands in its immediate vicinity, the commissioner or commissioners shall, upon conviction thereof, by indictment in the district court of the county in which he or they may reside, be guilty of a high misdemeanor, and be forever after disqualified to vote at any election, or of holding any office of profit or trust within this Territory.

SEC. 5. It shall be the duty of the commissioners aforesaid to receive, in the name of the board of county commissioners for the county of Van Buren, for the use of the county, any bond for the payment of money, or deed of land that may be made by any individual or individuals for the purpose of building public buildings at the said seat of justice. And they shall receive the sum of three dollars per day for their services during the time they may be necessarily employed in making said location, and also the sum of three dollars for every twenty miles, going from and returning to their respective homes.

SEC. 6. The district court of the county of Van Buren shall be held, for the first term after the passage of this act, at the town of Keosauqua, but forever thereafter at the place selected as the seat of justice for said county by the provisions of this act.

Sec. 7. The commissioners created by this act shall receive pay for their services, upon a presentation of a certificate to the county commissioners of their services, signed by said commissioners, out of any money in the county treasury not otherwise appropriated.

SEC. 8. *Be it further enacted,* That if the proprietors of the town of Keosauqua shall, on or before the first day of April next, enter into good and sufficient bonds, with security to be approved of by the county commissioners, to the county treasurer, for the benefit of the said county, for the sum of five thousand dollars, payable in town lots in said town of Keosauqua, or other real estate, at a fair cash value, or cash, or such other materials as the county commissioners may deem proper to receive, for the purpose of carrying on or completing the public buildings in said county.

SEC. 9. The payments to be devided into three equal parts, and paid annually in one, two, and three years.

SEC. 10. *Be it further enacted,* That if the said proprietors shall enter into bonds, as provided for in the eighth section of this act, then this act to be null and void, otherwise to remain in full force and value.

Approved, January 25, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1838-39*,  
p. 96.

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AN ACT TO PROVIDE FOR THE SALE OF LAND LOCATED UPON  
BY THE COUNTY COMMISSIONERS OF HENRY COUNTY, FOR  
THE BENEFIT OF SAID COUNTY IN ERECTING PUBLIC BUILD-  
INGS.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all the right and title that has accrued, or may hereafter accrue, to the quarter section of land located upon by the county commissioners of Henry county, and for the use of said county, and which may hereafter be pre-empted by virtue of an act of Congress entitled "An act granting to the counties and parishes of each State and Territory of the United States, in which the public lands are situated, the right of pre-emption to a quarter section of land, the proceeds of the sale of which to be applied

to the erection of public buildings in said county, approved May the 20th, 1824," shall be sold and conveyed by a county agent as hereinafter described.

SEC. 2. There shall be elected on the first Monday of May next, if necessary, a county agent, and thereafter at the annual election annually as long as the county commissioners shall deem such agent useful.

SEC. 3. The county agent, elected as aforesaid, is hereby authorized and empowered to sell, dispose of, and convey all the right, title, and interest said county may have in said quarter section of land, by deed, under his hand and seal, to any purchaser or purchasers.

SEC. 4. Said agent may sell and dispose of said quarter section in any manner that will best promote the interest of said county.

SEC. 5. All moneys arising from the sale of said quarter section shall be deposited in the county treasury, and be appropriated by the board of county commissioners of said county for the erection of county buildings.

SEC. 6. When any person shall be elected as aforesaid, he shall enter into bonds of ten thousand dollars, with good and sufficient security, to be approved by the board of county commissioners, payable to the treasurer of said county, conditioned to pay over all moneys, by him received from the sale or disposal of said quarter section of land, to the county treasurer.

SEC. 7. The county agent shall receive for his services the sum of two dollars per day, for every day he may be employed in selling and disposing of said quarter section of land, to be paid by the treasurer of said county, and shall, before he enters upon the duties of his office, take the following oath before the clerk of the district court; I do solemnly swear, or affirm, (as the case may be) that I will, to the best of my abilities, discharge the duties of county agent, without favor, fear, affection, or reward, and that I am not now, nor will be hereafter, interested in the sale or disposal of the quarter section of land, further than a citizen of said county.

SEC. 8. The election or elections, mentioned in the preceding sections of this act, shall be regulated and conducted in every respect according to the law concerning and regulating general elections, returns made, and votes canvassed in the same manner.

Approved, January 25, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 98.*

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AN ACT TO ESTABLISH THE BOUNDARY LINES OF WASHINGTON COUNTY, AND FOR OTHER PURPOSES.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county heretofore known and designated as the county of *Slaughter*, shall hereafter be called the county of *Washington*, and that the boundary lines of said county are hereby established as follows: Beginning on the range line between ranges five and six west, where the township line dividing townships seventy-three and seventy-four north intersects said line, thence west with said township line to the line dividing ranges nine and ten west, thence north on the said line to the line dividing townships seventy-seven and seventy-eight north, thence east with said line to the range line between ranges five and six west, thence south with said line to the place of beginning.

SEC. 2. That the said county of Washington shall, to all intents and purposes, be and remain an organized county, and invested with full power and authority to do and transact all county business which any regularly organized county may of right do.

SEC. 3. That John Gilleland of the county of Louisa, and Thomas Richey of the county of Henry, and William Chambers of the county of Muscatine, are hereby appointed commissioners to locate and establish the seat of justice of said county of Washington, being first sworn by any judge or

justice of the peace faithfully and impartially to locate the seat of justice of said county, taking into consideration the future as well as the present population of said county.

SEC. 4. The said commissioners, or a majority of them, shall meet at the town of Astoria, on the first day of June next, in pursuance of their duties under this act, and proceed as soon thereafter as may be to locate said seat of justice, and so soon as they have come to a determination, the same shall be committed to writing, signed by the commissioners, and filed with the clerk of the district court of said county, whose duty it shall be to record the same and forever keep it on file in his office, and the place thus designated shall be the seat of justice of said county: *Provided*, that the seat of justice of said county is hereby temporarily established at the town of Astoria, until the said commissioners shall have located the seat of justice agreeably to the provisions of this act.

SEC. 5. That the said commissioners shall receive, as a compensation for their services, the sum of three dollars per day, to be paid out of the treasury of said county of Washington.

SEC. 6. That the territory west of the county of Washington is hereby attached to said county for judicial purposes.

SEC. 7. This act to take effect and be in force from and after its passage.

Approved, January 25, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1838-39*,  
p. 100.

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AN ACT ORGANIZING A BOARD OF COUNTY COMMISSIONERS  
IN EACH COUNTY IN THE TERRITORY OF IOWA.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be and hereby is organized in each county in this Territory, a board of county commissioners for transacting county business, to consist of three qualified electors, any two of whom shall be

competent to do business, to be elected by the qualified electors of the several counties respectively. The election shall be at the time and places of the general election of each county.

SEC. 2. At the first election in pursuance of this act, the person having the highest number of votes shall serve three years, the person having the next highest number of votes shall serve two years, and the person having the next highest number of votes shall serve one year, and thereafter annually one commissioner shall be elected, who shall serve three years, and each commissioner elected according to the provisions of this act shall continue in office until his successor is elected and qualified. But if two or more persons shall have an equal number of votes as above, their grade shall be determined by lot, by the clerk, in the presence and under the direction of the sheriff of their respective counties.

SEC. 3. Each person elected as a commissioner shall, on receiving a certificate of his election, take an oath faithfully and impartially to discharge the duties of his office as such commissioner, before some person legally authorized to administer the same, which oath being certified on the back of such certificate, under the hand and seal of the person administering the same, shall be sufficient authority for such commissioner to take his seat with and act as a member of the board during the time for which he was elected.

SEC. 4. The county commissioners thus elected and qualified shall be considered a body corporate and politic, by and under the name and style of "The Board of Commissioners of the County of —" (naming the county) and as such, by and under such name and style, may sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any court either in law or equity, and do and transact all business on behalf of their respective counties that may be assigned them from time to time by law. And in all cases where their respective counties may have been injured, or may hereafter be injured, in their goods,

chattels, lands, tenements, rights, credits, effects, or contracts, such commissioners shall and may, by and under their corporate name and style, without setting out their individual names, bring any suit or suits, action or actions, either in law or equity, which may be best calculated to obtain redress for any such injury, in the same way and manner that private individuals might or could do; and may in like way and manner, by and under their corporate name and style, be sued by any person or persons having any manner of claims against such county.

SEC. 5. The board of commissioners shall meet at the court house in each and every county, or at the usual place of holding the district court in such county, for the purpose aforesaid, on the first Mondays in April, July, October, and January, in each and every year, and may sit six days at each term if the business of the county shall require it: *Provided, however,* if the district court shall meet on any of the before-mentioned days, the commissioners shall meet on the Monday preceding.

SEC. 6. The said board of commissioners shall appoint a clerk, who shall attend the meeting of the board of commissioners and keep a record of their proceedings, and do such other business as he shall be required by law to do. And the sheriff of the county shall also, by himself or deputy, attend said board and execute their orders.

SEC. 7. When money has been advanced by any clerk or other county officer for the use and benefit of his county, pursuant to the requisitions of law, the board of commissioners shall order such money so advanced to be first paid; and when there is any judgment or judgments against any county in the Territory, the board may in their discretion order when and in what manner such judgment shall be discharged, not inconsistent with the Constitution of the United States, any law to the contrary notwithstanding.

SEC. 8. When two only of the members shall be present at the meeting of the board, and a division shall take place on

any question, it shall be continued until the next meeting before it shall be finally determined. When any vacancy shall happen in the office of commissioner, the clerk, being notified of the same, shall immediately direct the sheriff of the county, whose duty it shall be to order an election to be holden for the purpose of filling such vacancy, thirty days previous notice of such election being first given, either by publishing the same in the county newspaper, or putting up notices in three different public places in said county.

SEC. 9. It shall be the duty of the board of commissioners, at their April session in each year, to receive and inspect the assessors' books and levy a county tax according to law, and cause their clerk to make out a duplicate for collection accordingly.

SEC. 10. The commissioners of each county respectively shall have and use a common seal for the purpose of sealing their proceedings, and copies of the same, when signed and sealed by said commissioners and attested by their clerk, shall be good evidence of such proceedings on the trial of any cause in any court in this Territory. The commissioners aforesaid at their session in January, or when the district term prevents their meeting in January, then at their first meeting thereafter, in every year, shall make a fair and accurate statement of the receipts and expenditures of the preceding year, and have the same set up at the court house door and at two other public places in their county respectively, and published in some newspaper in their county, if there be any. And if the said commissioners, or either of them, after accepting their appointment, shall neglect or refuse to do his or their duty in office, he or they so offending shall on conviction, by indictment before the district court of the proper county, be fined in any sum not exceeding two hundred dollars.

SEC. 11. The commissioners so elected and qualified shall each receive three dollars per day, for each and every day that they may necessarily be employed in transacting the county business; and said board of commissioners when

organized shall possess the powers and authority heretofore given to the county board of supervisors.

SEC. 12. All suits, pleas, complaints, prosecutions, and proceedings which may be pending in any court, to be tried for or against any board of county commissioners, previous to the taking effect of this act, shall be prosecuted to final judgment and execution in the same name and manner as the same might have been done had this law not been passed; and all contracts, either written or verbal, made by such board of county commissioners previous to the taking effect of this act, shall remain valid in law and equity, and suit may be thereupon brought in the same way and manner as the same might have been, had this act not been passed.

SEC. 13. It shall be the duty of the clerks of the several boards of commissioners to keep fair books wherein shall be kept the accounts of the county, to attest all orders issued by the board for the payment of money, and enter the same in numerical order in a book to be kept for that purpose, and shall copy into their said books the reports of the treasurer of the receipts and disbursements of their respective counties, and whenever the duplicate shall be put into the hands of the collector it shall be the duty of the said clerks to send a statement of the sum, wherewith such collector stands charged, to the county treasurer.

SEC. 14. When the holder of an attested county order in his own name of a larger amount than his county tax, is desirous of appropriating a part of such order to the payment of such tax, he is hereby authorized to apply to the clerk of the board of commissioners, whose duty it shall be to give to the holder of such order, and in exchange therefor, two or more attested county orders, making together the same amount with the original order which shall be thereupon cancelled. And such clerk shall insert in every such order that the same with others were so given in exchange to (naming the person) for such original order, together with the number and amount of such original order, one of which

orders shall be for the amount of his tax and shall appear on its face to have been intended for the payment thereof.

SEC. 15. Every collector of county taxes is hereby required to receive any regularly attested county order made by the board of commissioners, when the same may be tendered to him by any person in payment of such person's taxes due such county.

SEC. 16. No collector or other person doing county business shall, either directly or indirectly, purchase or receive in payment, exchange, or in any way whatever, any demand against his county, or any county order for a claim allowed by the board of commissioners, at any time during the period for which he may be elected, for a less amount than that expressed on the face of such order or demand against the county; and every person elected or appointed to do county business, before entering upon the duties of his office, shall take an oath not to violate the provisions of this section. And any collector or other person doing county business, offending against the provisions of this section, on conviction thereof, upon indictment or presentment, shall be fined for every such offence in any sum not exceeding five hundred dollars.

SEC. 17. The boards of commissioners shall annually allow their clerk such compensation per day as they may deem reasonable, not to exceed three dollars, while in session, and likewise to the sheriff one dollar and fifty cents per day for his attendance upon the board, and further that the board of commissioners may allow the clerk and sheriff such amount as is actually then due for extra services at each regular meeting of the board, by said clerk or sheriff filing a bill of items which shall be regulated by the act concerning costs and fees.

SEC. 18. From all decisions of the several boards of commissioners there shall be allowed an appeal to the district court by any person or persons aggrieved, and the person or persons appealing shall take the same within thirty days

after such decision by giving bond, with security to the acceptance of the clerk of said board conditioned for the faithful prosecution of such appeal, and the payment of costs already accrued and which may thereafter accrue if the same shall be adjudged by the said court to be paid by such appellant, and the clerk shall record such appeal with the cases pending in the district court within twenty days after the taking of such appeal.

SEC. 19. In any county where there is no court house provided, it shall be the duty of the board of commissioners to provide suitable rooms for the holding of the district court of said county.

SEC. 20. It shall be the duty of the board of commissioners to provide all books and stationary necessary for the use of said board, all books and stationary necessary for the use of the register of deeds, and all books and stationary necessary for the use of the clerk of the district, the probate court, and treasurer.

SEC. 21. The said board of commissioners are hereby authorized to hold extra sessions in case they may think the business of the county requires the same, and notice from any two of the said commissioners to the third shall be considered a sufficient call for said extra session, due notice thereof being given, and that no such extra session shall exceed three days.

SEC. 22. Nothing in this act contained shall be so construed as to vitiate or vacate the elections already held for commissioners, but they shall continue in office until the next general election to be holden in each of the organized counties.

Approved, December 14th, 1838.

—Reprinted from *Laws of the Territory of Iowa, 1838-39,*  
p. 101.

AN ACT TO DISTRICT THE SEVERAL COUNTIES IN THIS TERRITORY FOR THE ELECTION OF COUNTY COMMISSIONERS.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the counties of Des Moines and Lee shall be divided into three districts each, for the purpose of electing county commissioners.

SEC. 2. That part of the county of Des Moines lying south of Flint creek shall form the first district; that portion of said county north of Flint creek shall form the second; and the city of Burlington shall compose the third district.

SEC. 3. At the next annual election there shall be elected one county commissioner from each district; and at the next annual election thereafter there shall be elected one county commissioner from the said first district, resident therein, by the qualified voters of the county; at the next annual election thereafter there shall be elected by the qualified voters of said county one commissioner, resident in the second district; and at the next annual election thereafter there shall be elected by the qualified voters of said county one county commissioner, resident in the third district; and so on, alternately, so long as this act shall remain in force.

SEC. 4. That part of Lee county, lying east of the range line dividing ranges four and five, shall form the first district; the Half-Breed Tract shall form the second district; and the balance of the county shall form the third district.

SEC. 5. At the next annual election there shall be elected one county commissioner from each district; and at the next annual election thereafter there shall be elected one county commissioner from the said first district, resident therein, by the qualified voters in said county; at the next annual election thereafter there shall be elected one county commissioner, resident in the second district; and at the next annual election thereafter there shall be elected one county commissioner, resident in the third district; and so on, alternately, so long as this act shall remain in force.

SEC. 6. *Be it further enacted,* that the county commission-

ers of Van Buren county shall, at least three months previous to the next annual election, divide the said county into three districts, dividing the population as near as the nature of the case will admit, and shall number the said districts and publish the same, together with the boundaries of each district, in some newspaper printed within the Territory, or by posting up printed or written notices at three of the most public places in each of the several districts, at least one month previous to the next annual election.

SEC. 7. And there shall be elected by the qualified voters of each district one commissioner, who shall be a resident therein, and who shall hold their office as follows, to-wit: the one elected in the first district, three years; the one elected in the second, two years; and the one elected in the third district, one year; and thereafter to be elected in the several districts as their terms of office shall expire.

Approved, January 25, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,*  
p. 106.

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#### AN ACT TO LEGALIZE THE ACTS OF COUNTY COMMISSIONERS.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all the acts of the respective boards of county commissioners within this territory, heretofore done or performed, shall be deemed legal and valid in law, so far as the same were not done in violation of some prohibitory law of this Territory, or of the Congress of the United States.

SEC. 2. That a transcript from the records or books of said board of county commissioners, signed by the clerk of their board, with the seal of the said board of commissioners to the same annexed, shall be legal evidence of the action of the respective boards of commissioners in any court of record or before any judicial tribunal in this Territory.

Approved, January 25, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,*  
p. 107.

**AN ACT PROVIDING FOR THE ESTABLISHMENT OF COMMON SCHOOLS.**

**SEC. 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be established a common school, or schools, in each of the counties of this Territory, which shall be open and free for every class of white citizens between the ages of four and twenty-one years: *Provided*, that persons over the age of twenty-one may be admitted into such schools on such terms as the trustees of such district may direct.

**SEC. 2.** The county board shall from time to time form such districts in their respective counties, whenever a petition may be presented for that purpose by a majority of the voters resident within such contemplated district.

**SEC. 3.** The legal voters in each district, to be established as aforesaid, may have a meeting at any time thereafter, by giving ten days' previous notice, at four of the most public places within the township or district, of the time and place of the same, at which meeting they may proceed, by ballot, to elect three trustees, one clerk, one treasurer, one assessor, and one collector, who shall severally take an oath of office faithfully to discharge their respective duties.

**SEC. 4.** It shall be the duty of the trustees to superintend the schools within their respective districts; to examine and employ teachers; to lease all land belonging to the district; to call meetings of the voters whenever they shall deem it expedient, or at any time, when requested so to do by ten legal voters residing within said district, by giving at least ten days' notice of the same, by putting up written or printed notices at three of the most public places in the district; to make an annual report to the county commissioner's court in the proper county, of the number of children living within the bounds of such district, between the ages of four and twenty-one years, and what number of them are actually sent to school, with a certificate of the actual time a school is kept up in the district, with the probable expense of the same.

SEC. 5. Each and every school district, when established and organized as a free school shall be and they are constituted a body corporate and politic, so far as to commence and maintain an action on any agreement made with any person or persons for the non-performance thereof, or for any damage done their school house, or any other property that may belong to, or be in the possession of, such school, and be liable to an action brought and maintained against them for the non-performance of any contract by them made.

SEC. 6. It shall be the duty of the trustees to prosecute and defend all such suits, in the name of the trustees for the benefit of the school district, giving it its proper name, and that it shall be lawful for the said trustees, in the name and for said district, to purchase, or receive as a donation, and hold in fee simple, any property, real or personal, for the use of the said school district; and they may prosecute, or defend, any suit or suits relative to the same; and it shall be the duty of the trustees to give orders on the treasurer of the said district for all sums appropriated in paying teachers, and all other expenditures necessarily incurred in establishing, carrying on, and supporting all schools within their respective districts; and at the regular annual meeting of the inhabitants of the district, the said trustees shall, together with the other officers, settle all accounts which shall have accrued during the year for which they were elected.

SEC. 7. That it shall be the duty of the clerk of each district to keep a book, in which he shall make true entries of the votes and proceedings of each meeting of the voters of the district, and of the trustees, which shall be held according to law, and to give attested copies thereof, which shall be legal evidence in all courts of this Territory.

SEC. 8. That it shall be the duty of the treasurer of each school district to receive all moneys belonging to the same, and pay them over, for the use of the school, to the order of a majority of all the legal voters, by vote in general meeting, or the order of the trustees, requiring at all times a written

voucher for such payment, stating the purpose for which it is made.

SEC. 9. That it shall be the duty of the collector of each school district to collect all the moneys belonging to, or due to the same, when directed so to do, and to collect such taxes as, by the vote of the district, shall be levied, and to pay over all moneys, when collected, to the treasurer of said district, within twenty days after such collection, except five per cent, which he shall retain for his services, taking his receipt for the same.

SEC. 10. That it shall be the duty of the assessor of each school district to assess all such property, lying within and belonging to the inhabitants of said district, as he may be directed to assess by a majority of the voters in such district, and to make return of the same, within thirty days after such assessment, to the trustees of said district.

SEC. 11. That when any legal voter, living within any school district, shall be duly selected or appointed, according to the second section of this act, trustee, clerk, treasurer, collector, assessor, or to serve a notice, and shall refuse or neglect to discharge the duties of the same, he shall, if a trustee, be fined in the sum of ten dollars, if a clerk, in the sum of eight dollars, if a treasurer, in the sum of five dollars, if an assessor, in the sum of five dollars, and if a person appointed to serve a notice of any meeting, the sum of five dollars; and for a neglect to settle all of their respective accounts at the end of the year for which they were elected, the trustees, clerk, and treasurer shall be fined in the sum of twenty dollars, which, together with all other fines imposed in this act, shall be collected by suit before any justice of the peace within the proper county, and when collected shall be paid over to the treasurer of the district for the use of the school, or schools, within the same.

SEC. 12. That the legal voters within any school district, lawfully assembled, shall have the powers, to wit: To appoint a time and place for annual meeting, to select a place within

the district, to build a school house, to levy a tax, in conformity with the provision of the tenth section of this act, either in cash, or good merchantable product at cash price, upon the inhabitants of their respective districts, not exceeding one half per centum, nor amounting to more than ten dollars per annum on any one person, to do all and everything necessary to the establishment and support of schools within the same.

SEC. 13. That one of the trustees shall preside at all meetings of the voters, who shall put all questions upon which a vote is to be taken, and when the vote is taken upon levying a tax upon the district, each of the voters present may propose a sum to be levied, and the vote shall be taken on the highest sum proposed, and in case of a disagreement, upon the next highest, and so on down, until a majority of all the legal voters within the district, so taxed, shall agree.

SEC. 14. That it shall be the duty of the trustees, or a majority of them, to furnish the collector with a sufficient warrant to collect such taxes as may be so levied, which warrant shall be his authority for collecting the same.

SEC. 15. That the treasurer of each district shall, before he enters on his duties, give bond, with good and sufficient security, to the trustees of said district, in any sum agreed upon by said trustees, for the true and faithful performance of his duties. And the collector shall give bond in like manner.

Approved, January 1, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1838-39*, p. 180.

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#### AN ACT TO REGULATE FERRIES.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That no person shall be permitted to keep a ferry across any stream except the Mississippi river, running through or bounding on any county in this Territory, without having first obtained a license, from the county commissioners' court of the proper county, for the purpose, as hereinafter provided.

SEC. 2. That the person applying for such license shall produce satisfactory evidence to the court, by the affidavit of the applicant, or otherwise, of his having given notice, by advertisement, set up in at least three public places in the township or neighborhood where the ferry is proposed to be kept, twenty days prior to the sitting of the court, of his intention to apply to such court for a license to keep a ferry.

SEC. 3. That the court being satisfied that the notice hereby required has been given, that a ferry is needed at such place, and that the applicant is a suitable person to keep the same, are hereby authorized to grant to the applicant a license to keep the same for any term of time, not exceeding five years, on the applicant's paying into the county treasury of the proper county a sum to be fixed by the court, not less than two, nor more than fifty dollars annually, and on the applicant's producing the county treasurer's receipt for the payment of the sum so fixed, he or she shall receive from the clerk of the court a license, under the seal of the court, for a time not exceeding the term aforesaid, for which he or she shall pay the clerk the sum of fifty cents: *Provided*, That all ferries so established shall not be nearer than one mile of each other.

SEC. 4. That the person owning or possessing land on both sides of any stream, where a ferry is proposed to be established, shall have exclusive right of a license for a ferry at such place, and when the opposite banks are owned by different persons, the rights to the ferry shall be mutual, but if the owner does not apply, the court shall grant a license to any person applying for the same, except where either of the landings are not in a public highway, the consent of the owner of the ground shall first be had in writing: *Provided*, When any person shall apply for a renewal of his license at the same place where he has kept the preceding year, the same may be granted or renewed without notice or petition.

SEC. 5. That every person obtaining a license to keep a

ferry shall provide, and keep in complete repair, a good and sufficient boat for the safe conveyance of persons and property, and when the river or creek, over which the ferry is kept, is passable, shall, with a sufficient number of hands to work and manage the boat, give due attendance from daylight in the morning until dark in the evening; and shall moreover at any hour in the night or day, (that the creek or river can be passed) when called upon for that purpose, convey the United States mail, or other public express, across said ferry. And if any person, having obtained a license as aforesaid, shall fail or neglect to perform the duties herein enjoined, or any of them, the person so offending shall forfeit and pay for every such offence a sum, not exceeding twenty dollars, to be recovered before any justice of the peace, of the proper county, at the suit of any person prosecuting for, and making due proof of such failure or neglect. And if any keeper of a ferry, as aforesaid, shall demand and receive a higher rate or sum for ferriages than shall be allowed by law regulating ferries, the person so offending shall forfeit and pay for every such offence a sum, not exceeding ten dollars, recoverable before any justice of the peace of the proper county, by any person making due proof thereof, to be disposed of as hereinafter provided.

SEC. 6. That the court of county commissioners, at the same time they grant a license to keep a ferry, shall also fix the rate of ferriages which the ferry-keeper may demand and receive for the transportation of persons and property, and it shall be the duty of the clerk of said court to furnish every person, on taking out a license to keep a ferry, with a list of the rate of ferriages, which list the ferry-keeper shall post up at the door of his ferry house, or some conspicuous place convenient to said ferry.

SEC. 7. That if any person shall keep a ferry without being duly authorized, the person so offending shall forfeit and pay a sum, not exceeding thirty dollars, to be recovered by any person suing for the same before any justice of the peace having jurisdiction thereof.

SEC. 8. That all actions or suits brought under the provisions of this act shall be in the name of the United States, and the court taking cognizance thereof shall keep a record of all fines and forfeitures recovered under the same, and sheriffs, constables, and other officers shall pay all moneys, within thirty days after receiving the same, into the county treasury, and justices of the peace and clerks of courts, before whom any fine is recovered, shall present an accurate account thereof to the county treasurer, on or before the first day of June annually, and the clerks of courts shall in like manner return a list of all licenses by them issued, and to whom, and the price of each respectively, and it shall be the duty of the county treasurer to inform and prosecute all offenders against this act.

SEC. 9. This act to be in force and take effect from and after the first day of March next.

Approved, December 20, 1838.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 208.*

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AN ACT TO MAKE VALID AND GOOD IN LAW THE ACTS OF  
ROBERT G. ROBERTS, DONE AND PERFORMED BY HIM AS A  
JUSTICE OF THE PEACE, IN AND FOR THE ORIGINAL COUNTY  
OF DU BUQUE, IN THE TERRITORY OF WISCONSIN, NOW  
THE TERRITORY OF IOWA.

WHEREAS, Robert G. Roberts, a citizen of the county of Du Buque, late Wisconsin, now Iowa Territory, was in the month of November, in the year of our Lord one thousand eight hundred and thirty-six, duly commissioned, and, in the month of February of the same year, sworn and qualified to act as a justice of the peace, according to the requirements of the law in such case made and provided, except that the bond of the said Robert G. Roberts was not, agreeably to law, filed in the proper office, by the neglect of which requirement doubts have been made as to the validity and virtue of all the

official acts done and performed by the said Robert G. Roberts, in pursuance of his commission aforesaid, in and for the county aforesaid: And whereas, it is highly important that his said acts should be declared and rendered legal and valid: Therefore,

*Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all and every the official acts and doings of the said Robert G. Roberts, done and performed by him, by virtue of his commission of justice of the peace, in and for the county of Du Buque aforesaid, during the time he held the same, and performed the duties thereof, be and the same are hereby declared to be as good and valid, in law, as if the said bond had been properly filed according to the requirements of the law in such cases made and provided: *Provided*, nevertheless, That nothing in this act contained shall be so construed as to affect the rights of appeal, or such other rights and privileges as are by the laws of this Territory, regulating proceedings had before justices of the peace, extended to the parties interested therein.

Approved, December 14, 1838.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,*  
p. 281.

AN ACT TO PROVIDE FOR THE APPOINTING OF JUSTICES OF THE PEACE, TO PRESCRIBE THEIR POWERS AND DUTIES, AND TO REGULATE THEIR PROCEEDINGS.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa, as follows:* There shall be appointed in each of the organized counties of this Territory as many justices of the peace as, in the opinion of the Governor, the public good and the wants of the people may require, and whose term of service shall continue three years, unless sooner removed by the Governor.

SEC. 2. No clerk of the District Court shall hold or exercise the office of justice of the peace.

SEC. 3. Every justice of the peace shall, within twenty days after the receipt of his commission, take and subscribe an oath to support the Constitution of the United States and the laws of this Territory, and to administer equal justice to the poor and the rich, and to faithfully demean himself in office; which oath shall be endorsed on the back of his commission, shall be recorded in the office of the Clerk of the District Court, and in case of his failing so to do, it shall be deemed a refusal of such appointment. And each and every justice of the peace of this Territory shall, at the time of filing his oath of office with the clerk of the District Court, enter into bond with good security to the county commissioners, in the county where he resides, in the sum of five hundred dollars, conditioned that he will faithfully pay over all moneys that may come into his hands on judgments, notes, bills, or accounts, and on failure so to do, the party aggrieved may by motion before the District Court where such bond is filed, have judgment for principal with costs and ten per centum interest until paid.

SEC. 4. Any person who shall act as a justice in violation of the preceding section shall, on conviction thereof by indictment, be fined in a sum not exceeding five hundred dollars, and his acts shall be null and void.

SEC. 5. No person shall be appointed to the office of justice of the peace who is not a citizen of the United States, and who shall not have been an inhabitant of this Territory twelve months, and of the county for which he is appointed six months before his appointment.

SEC. 6. When a county shall be divided, any justice of the peace of the original county, who shall fall into the new county, shall continue to discharge the duties of justice of the peace in such new county, until his commission expire, as if the county had not been divided.

SEC. 7. Justices of the peace shall have power and jurisdiction throughout their respective counties as follows:—

First—Jointly and severally to cause to be kept all laws made for the preservation of the peace.

Second—To cause to come before them or any of them, persons who shall break the peace, and commit them to jail; or bail them as the case may require.

Third—To arrest and cause to come before them persons who attempt to break the peace or who are not of good fame, and compel them to give security for their good behavior to keep the peace, or both.

SEC. 8. If such persons refuse or neglect to give security, they shall be committed, until they find the same.

SEC. 9. Every recognizance so taken for the keeping of the peace, or good behavior, or for both, shall be certified to the next District Court of the county.

SEC. 10. In the following cases, and no others, a justice of the peace may punish for contempt persons guilty of the following acts:—

First—Disorderly, contemptuous, insolent behavior towards such justice, while engaged in the trial of a cause, or in rendering judgment, or in any judicial proceedings, which shall tend to interrupt such proceeding or to impair the respect due to his authority.

SEC. 11. Justices of the peace are empowered to grant subpoenas for witnesses, in all matters submitted to referees and arbitrators, and in all cases where it may be necessary for taking depositions.

SEC. 12. Whenever a justice of the peace shall resign, move out of the county, or be otherwise disqualified, he shall immediately thereafter deliver to the next nearest justice of the peace in the same county, all dockets, records, books, papers and documents, appertaining to his office, or relating to any suit, matter or controversy committed to him in his official capacity, he taking a receipt therefor.

#### ARTICLE II.

*Of the jurisdiction of Justices of the Peace and authorizing them to hold a Court.*

SEC. 1. Every justice of the peace is authorized to hold a

court, for the trial of all actions, in the following section enumerated, and to hear, try and determine the same, according to law and equity.

SEC. 2. First—Of all actions of debt, covenant and assumpsit, and all other actions founded on contract, where the debt or balance due or damages claimed, exclusive of interest, shall not exceed fifty dollars.

Second—Actions of trespass and trespass on the case, for injuries to persons or to real or personal property, wherein the damage claimed shall not exceed fifty dollars.

Third—Actions of detinue and replevin, when the thing demanded or claimed does not exceed in value fifty dollars.

Fourth—Actions commenced by attachment of property as hereinafter provided, as well as for any penalty given by any statute of this Territory, when the amount shall not exceed fifty dollars; and

Fifth—To take and enter judgment on the confession of a defendant, when the amount confessed shall not exceed the amount for which a justice is authorized to render judgment in action.

SEC. 3. No justice of the peace shall have cognizance,

First—Against an executor or administrator, for any debt or demand due from the testator or intestate; nor

Second—Of any action of slander, malicious prosecution, or false imprisonment, nor

Third—Of any action, where the title to lands and tenements shall come in question.

SEC. 4. Every justice of the peace shall have jurisdiction co-extensive with the county, for which he is appointed.

SEC. 5. Every action cognizable before a justice of the peace instituted by summons or warrant, shall be brought before some justice of the township; either

First—Wherein the defendant resides; or

Second—Wherein the plaintiff resides and the defendant may be found, but if the defendant in any action is a non-resident of the county, or has absconded from the usual place

of abode, the action may be brought before some justice of any township where he may be found.

SEC. 6. Every action instituted by attachment shall be brought before some justice of the county, wherein the property of the defendant may be found.

SEC. 7. If there are several persons jointly liable to a suit residing in different townships in the same county, the suit may be brought in any such township, against all such persons; and if any defendant in a suit instituted by attachment has property in several townships in the same county, such attachment may be issued against the property of the defendant, wherever it may be found in the county.

SEC. 8. Whenever there shall be no justice of the peace within the township where any suit cognizable before a justice ought to be brought, or whenever all the justices of such township are interested in any suit or otherwise disqualified by law from trying the same, every such suit may be brought before some justice of any adjoining township of the same county.

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#### ARTICLE IX.

##### *Of appeals and proceedings thereon in the district court..*

SEC. 1. Any person aggrieved by any judgment rendered by a justice of the peace, may in person, or by his agent, make his appeal therefrom to the District Court of the same county where the judgment was rendered.

SEC. 2. But no appeal can be taken, unless within ten days after the rendering of such judgment application shall have been made to the justice by the party aggrieved, to set the same aside, and such application shall have been refused.

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Approved, January 21, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1838-39,*  
p. 282.

AN ACT TO AUTHORIZE THE APPOINTMENT OF PUBLIC ADMINISTRATORS IN THE SEVERAL COUNTIES OF THIS TERRITORY, AND TO PRESCRIBE THEIR DUTIES.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be elected, biennially, in each organized county in this Territory a suitable person, to be known and named the Public Administrator, whose office and duties shall be prescribed as follows:

SEC. 2. That when any person shall die intestate in any county in this Territory, or when any person, a non-resident, shall die intestate, having goods and chattels, rights and credits, or either, in this Territory, and no widow, or next of kin, or creditor, or creditors, shall be living within this Territory, administration of the goods and chattels, rights and credits of such intestate shall be granted to the public administrator of the county, in which such intestate died, or in which the goods and chattels, rights and credits shall be found, in case such intestate shall have been a non-resident, and his successors in office.

SEC. 3. Each and every public administrator who may at any time be appointed as aforesaid, shall, before entering upon the duties of his office, take and subscribe the following oath, to wit: "I, A. B., public administrator, in and for the county of —— and Territory of Iowa, do solemnly swear (or affirm) that I will well and truly perform all such duties as may be required of me, by law, as such administrator, to the best of my knowledge and abilities, so help me God;" which said oath shall be taken before the judge of probate of the proper county, reduced to writing, and subscribed by the public administrator, and filed in the office of said judge.

SEC. 4. It shall be the duty of the public administrator, before entering upon the duties of his office, as aforesaid, to enter into bond with sufficient security, to be approved of by the judge of probate in the sum of —— thousand dollars, conditioned for the due administration, according to law, of all such goods and chattels, rights and credits, and assets as may

belong and appertain to the several estates upon which administration may be granted to him as aforesaid; which said bond shall be in the following form, to wit: "Know all men by these presents, that we, A. B. C. D. and E. F. of the county of \_\_\_\_\_ and Territory of Iowa, are held and firmly bound unto the people of the Territory of Iowa, in the penal sum of \_\_\_\_\_ thousand dollars, current money of the United States, which payment, well and truly to be made and performed, we and each of us do bind ourselves, our heirs, executors, administrators and assigns jointly, severally and firmly by these presents, as witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_\_. The condition of this obligation is such, that whereas the said A. B. has been appointed public administrator, in and for the county of \_\_\_\_\_: Now, if he, the said A. B., as such public administrator, shall well and truly administer all such goods and chattels, rights, credits and assets as shall come to his hands, or possession, or to the possession of any other person, for him, and which may belong to the estate, or estates, of any person, or persons, upon which administration may, at any time, be granted to him, by the judge of probate of said county of \_\_\_\_\_ and do cause to be made, or make himself, a true and perfect inventory of the goods, chattels, rights, credits and assets of all such deceased persons, the administration of whose estates shall be committed to him as aforesaid, and the same so made doth exhibit in the said court of probate, when he shall thereunto be required by law, and do make and render a just account of all his actings and doings, as such, in each separate estate, to the probate court of the proper county, when required so to do, and shall, in general, do and perform all such other duties as may, from time to time, be required of him by law, then the above obligation to be void, otherwise to remain in full force and virtue," which said bond shall be signed and sealed by the public administrator, and his securities, and attested by the judge of probate, and filed in his office.

SEC. 5. In all cases, when administration shall have been

granted to any public administrator, as aforesaid, and it shall afterwards appear, that there is, or are, a widow, or next of kin, or creditor, or creditors, of the deceased, entitled to the preference of administrator, by this act, it shall be the duty of the court of probate to revoke the letters granted to such public administrator, and to grant the same to such widow, next of kin, creditor, or creditors, as shall be entitled thereto: *Provided*, That application shall be made to the court of probate, of the proper county, by such person, or persons, within six months after letters shall have been granted to the public administrator as aforesaid, saving to such administrators, in all cases, all such sum or sums of money as may be due to him from such estate on account of commission and expenses due to and incurred by him in the management of said estate.

SEC. 6. If any balance of any such intestate estate, as may at any time be committed to any public administrator, as aforesaid, shall remain in the hands of such administrator, after all just debts and charges against such estate shall have been fully paid, which shall have come to the knowledge of such public administrator, for two years after the administration of such estate shall have been committed to him, as aforesaid, such administrator shall cause the amount thereof, with the name of the intestate, the time and place of his, or her, decease to be published in some one of the newspapers printed in this Territory, for eight weeks successively, notifying all persons having claims or demands against such estate, to exhibit the same, together with the evidence in support thereof, before the court of probate of the proper county, within six months after the date of such notice, or that the same will be forever barred, and if no such claim be presented for payment, or distribution, within the said time of six months, such balance shall be paid into the county treasury, and the county shall be answerable for the same, without interest, to such person or persons as shall thereafter appear to be legally entitled to the same, if any shall ever appear.

SEC. 7. Upon the death of any person, or intestate, not

leaving a widow, or next of kin, or creditor, or creditors, within any county of this Territory, it shall and may be lawful for the public administrator of the county, wherein such person may have died, as aforesaid, or wherein the goods and chattels, rights and credits of such decedent shall be, in case such person shall have been a non-resident, to take such measures as he may deem proper for the protection and securing the property and effects of such intestate, from waste and embezzlement, until administration thereon shall be granted to the person entitled thereto, as aforesaid, the expenses whereof shall be paid to such public administrator upon the allowance of the court of probate, in preference to all other demands against such estate, funeral expenses excepted.

Approved, January 19, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 385.*

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#### AN ACT FOR ASSESSING AND COLLECTING COUNTY REVENUE.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That for the purpose of raising a revenue for county purposes, the board of county commissioners shall levy a tax on all lands, town lots, and out lots, with the improvements thereon, not heretofore exempt from taxation by any law of the United States, now in force, and on all personal property, with the exception of seventy-five dollars worth of household furniture to each householder, and excepting libraries, tools of mechanics, and agricultural implements; on each license for retailing spirituous liquors, and foreign and domestic groceries by a less quantity than one gallon, to be drank in or about the house where such liquors are retailed, in all incorporated towns, one hundred dollars; all groceries other than those in incorporated towns, fifty dollars; but on each license to vend merchandize, not less than ten, nor more than fifty dollars per annum, dis-

cretionary with the board of commissioners; on each license for hawking wooden, or brass clocks in the county, not less than one hundred, nor more than three hundred dollars; on each ferry not less than five, nor more than twenty dollars per annum.

SEC. 2. The commissioners shall annually, at their regular session in July, or so soon thereafter as the assessment roll is filed, levy a poll tax of one dollar on every qualified voter, in their county under sixty years of age, and a per centage on real and personal property as aforesaid: *Provided*, That such per centage shall not, in any case, exceed five mills on the dollar. No tavern keeper shall be permitted to retail spirituous liquors without a grocery license.

SEC. 3. That, at the time and place of holding the election for county commissioners, there shall be elected one assessor for each county, who shall be a qualified elector, and whose term of office shall be one year, and until his successor is duly elected and qualified. Such assessor shall, within sixteen days after receiving a certificate of his election, enter into bonds with security, to be approved by the board of county commissioners, in the penalty of three hundred dollars, conditioned for the faithful performance of his duties, as assessor, and also take an oath, or affirmation, to be administered, by the clerk of the board of county commissioners, well, truly and faithfully to discharge the duties required of him by law.

SEC. 4. If any assessor, so elected under the provisions of this act, shall refuse to accept of such office, or fail to comply with the foregoing section, the clerk of the board of commissioners shall, upon such failure, issue a notice thereof to the board of commissioners, which shall be served by the sheriff upon said commissioners, and it shall be the duty of said commissioners, upon receiving notice thereof, to call a meeting forthwith, and appoint some suitable person to fill such vacancy, which assessor, so appointed, shall be qualified according to the foregoing section, and should any assessor

die, or become unable, from bodily infirmity or any other cause, to complete the assessment of his county, township, or district, according to the provisions of this act, upon information thereof to the clerk aforesaid, a like summons as above mentioned shall be by him issued, and the appointment and qualification thereupon made, and such last mentioned assessor shall demand and receive the assessment roll of his predecessor, or of the person in whose possession it may be, and proceed to complete the assessment of taxable property, according to the provisions of this act, and if the roll of his predecessor cannot be obtained, the clerk, on application, shall make out a new form.

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Approved, January 24, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 401.*

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#### AN ACT TO PROVIDE FOR A TERRITORIAL REVENUE.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That, for the purpose of raising a Territorial revenue, to defray the expenses authorized by law to be paid out of the Territorial Treasury, it shall be the duty of the county commissioners of each of the counties of this Territory, at the time of the filing of the assessment roll, to deduct from the gross amount of taxes there charged, five per cent. to be set apart, by the said county commissioners, as a debt due from said county to the Territory.

SEC. 2. The county commissioners shall furnish the Treasurer of the Territory, immediately after the same may be filed, with a copy of the duplicate for their respective counties, for the current year, together with the sum which will be due from said county to the Territory, for that year.

SEC. 3. The first moneys which may be returned by the

collector, collected from the duplicate of any year, to the amount due the Territory for that year, from the county, shall be retained by the Treasurer of each county for the use of Territory, and the county treasurers shall pay over the same upon the drafts or warrants of the Treasurer of the Territory.

SEC. 4. The duties, herein enjoined upon the county treasurers, shall be so considered, that a departure therefrom shall be deemed a breach of the conditions of their official bonds, so that they, and their securities, shall be liable to the Territory for any loss which may accrue therefrom; and any county treasurer who shall dishonor, or refuse to pay, the drafts of the Territorial Treasurer, for any money which may be in his hands, and due from said county, at the time, to the Territory, shall be amerced in damages of fifty per cent.

Approved, January 25, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 418.*

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#### AN ACT FOR THE APPOINTMENT AND DUTIES OF SHERIFFS.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be appointed, and commissioned by the Governor, by and with the consent of the Legislative Council, in each of the organized counties of this Territory, a sheriff, who shall hold his office for the term of two years, unless sooner removed, who shall, previous to entering upon the duties of his office, take an oath or affirmation to support the constitution of the United States, and, also, an oath, or affirmation, faithfully to execute the duties of his office.

SEC. 2. Every sheriff, appointed and commissioned as aforesaid, on receiving notice of his commission, shall, within thirty days thereafter, enter into bonds, to the United States, with good and sufficient security, to be appointed by the judge of the district court of his county, at the term next after

the dates of such bond, in the penal sum of five thousand dollars, conditional for the faithful discharge of all the duties required, or to be required, of him by law, as sheriff, and shall also, at the time of giving such bond, take and subscribe, before the clerk of the district court, the several oaths required by law: *Provided*, That if no district court be held within the proper county, within thirty days after notice of such commission as aforesaid, the clerk may approve the bond and security, as aforesaid, which bond, in that case, shall be good and valid, until the end of the next succeeding district court.

SEC. 3. The oaths, so taken, and bond given as aforesaid, shall be filed and recorded by the clerk of the district court, and the taking and subscribing of the oaths, shall be certified by him on the back of the commission, and a certified copy of such bond under the seal of the district court shall be evidence in all courts in this Territory.

SEC. 4. If any sheriff, appointed as aforesaid, shall neglect, or refuse, to enter into bonds, and take the oaths above subscribed, within the time above specified, or if any bond approved by the clerk, as aforesaid, shall be disapproved by the judge of the district court, and such sheriff shall not, during the term of the court, procure such security as the judge shall approve, in all such cases the office shall be deemed vacant.

SEC. 5. It shall be the duty of every sheriff, when qualified as aforesaid, to execute, and return, all writs, warrants, process, orders and decrees, of every description, that shall, or may be legally directed and delivered to him, within the limits of his county, under pain of contempt of court, under which warrant, writ, process, or decree may have issued, and for the service of such process, and for keeping of the peace, such sheriff may call to his aid the power of the county, when necessary.

SEC. 6. Every sheriff, to whom any writ shall be delivered, in the county where it is to be executed, shall, if required by the person delivering the same, give to such person a cer-

tificate under his hand, without taking anything therefor, wherein the names of the parties and the day of delivering the writ shall be mentioned.

SEC. 7. If any sheriff shall neglect, or refuse to pay over any money collected by virtue of any execution, or process, to any person entitled to receive the same, or shall willfully neglect his duties, to the prejudice, or injury, of any person, such person may, in the court where the bond of such sheriff is filed, and recorded, prosecute the bond of such sheriff, and the same proceedings shall be had thereon, as in other cases of bonds for the performance of covenants, and after judgment had, any person injured and who would be entitled to sue on said bond, may obtain a writ of inquiry of damages, on such judgment, and in every case where damages shall be assessed, execution shall be issued for the amount of such damages, and costs, and collected, for the use of the injured party, or upon the failure of any sheriff, after demand made to pay over any money by him collected, by virtue of any execution, or process whatever, to any person entitled to receive the same, such person may proceed against the sheriff in a summary way, before the district court, by motion, upon giving to such officer three days' notice of the application, and recover the amount so neglected to be paid, with twenty per cent. damages thereof, for such detention, and shall have execution therefor: *Provided*, That in all such cases, if the sheriff shall pay, or satisfy, the amount claimed by the party prosecuting, with costs, under the direction of the court before final judgment, or in any subsequent prosecution before inquest found, all further proceedings on such bond or judgment shall be stayed by the court.

SEC. 8. If any sheriff shall fail to settle with, and pay over, to the board of county commissioners, according to law, any money which he may have collected, or received, belonging to such county, it shall be lawful for the board of county commissioners of such county, to proceed against such sheriff in a summary way before the district court, by motion, upon

giving such sheriff three days' notice of such application, and recover the amount due such county, with twenty per cent. damages thereon, for such neglect, and shall have execution therefor, or may proceed against such sheriff, and his securities, for such delinquency, upon his bond of office.

SEC. 9. It shall be the duty of each and every sheriff, in this Territory, to make a settlement with the board of county commissioners of his county, for the taxes, and moneys by him, collected, or due the county, at the April term of such board, annually, and as often thereafter as he shall be required by the board of commissioners.

SEC. 10. The several sheriffs shall be conservators of the peace, in their respective counties, and to keep the same, by causing all offenders against the law, in their views, or within their knowledge, to enter into recognizance, with sufficient sureties for keeping the peace, and appearing at the next term of the district court of the proper county, and to commit, in case of refusal, and return said recognizance, certified to the said court; and it shall also be the duty of all sheriffs to suppress all riots, routs, affrays, fightings, and all crimes and breaches of the peace, and to do and perform all such other duties as are, or may be, required of them by law.

SEC. 11. It shall be the duty of the sheriff of each county to attend all district courts, probate courts, and boards of county commissioners, in his county, at the terms and sessions of such courts, or boards, and he shall have the care and custody of the court house, and jail, and shall appoint a keeper of the jail, for whom he shall answer.

SEC. 12. No sheriff, or other officers, by color of their office shall directly, or indirectly, ask, demand, or receive, for any services, or acts to be by them performed, in pursuance of any duty of their office, any greater, or more fees, than are allowed by law, on pain of forfeiting, for such offence, to the party aggrieved, his treble damages, together with costs of suit; and also the sum of two hundred and fifty dollars, the one moiety to the county wherein the sheriff, or officers, shall

reside, and the other moiety to the party who shall sue for the same, to be recovered with costs of suit, in any court of record, having cognizance thereof, by action of debt.

SEC. 13. No sheriff shall become the purchaser, nor procure any person to become the purchaser, for him, of any property, real or personal, by him exposed to sale, by virtue of any execution, or other process, and all such purchases made by any sheriff, or by any other person, in his behalf, shall be absolutely null and void.

SEC. 14. The sheriff of each county in this Territory may, as soon as may be, after he has taken upon himself the office, by writing under his hand and seal, make some proper person deputy sheriff of the same county, who shall also be his deputy during the pleasure of the said sheriff, and as often as such deputy sheriff shall die, or be removed from his office, or move out of the county, or become incapable of executing the duties of his office, another shall be appointed in his place, in manner aforesaid, and every such deputation, or appointment, shall be recorded in the office of the clerk of the district court of the proper county; and in case of the death of the sheriff of any county, the deputy sheriff of the county shall, in all things, execute the office of sheriff of the same county, in the name of the deceased sheriff, until another shall be appointed and commissioned, and shall take upon himself the said office, and the faults and misfeasances, in office, of such deputy sheriff in the mean time, as well as before, shall be adjudged a breach of the condition of the bond and security given by the sheriff who appointed him; and in case there shall be no such deputy sheriff of any county, at the time of the death of the sheriff of such county, or if such deputy sheriff shall die, or remove out of the county, or become incapable of executing the office before another sheriff of the same county shall be appointed, and commissioned, and have taken upon himself the said office, then, and in every such case, the coroner of such county shall, in all things, execute the office of sheriff of the same county, until a sheriff thereof

shall be appointed and commissioned, and shall take upon himself the said office: *Provided*, That nothing in this act contained shall be so construed as to prevent any sheriff from appointing so many deputies as he may deem proper, and further, that no person deputed to do a particular act only, shall be required to take the oath, or affirmation, to be taken by the deputies of sheriffs.

SEC. 15. Whenever the office of any sheriff shall have expired, it shall be lawful for the same person, whether re-appointed or not, and his deputy, or deputies, to continue to perform all the duties of sheriff, until his successor shall be commissioned and qualified as hereinbefore directed, and whenever any sheriff shall go out of office, and his successor in office shall be qualified as aforesaid, the clerk of the district court shall issue a notice in writing stating that \_\_\_\_\_ has been appointed sheriff, and is qualified according to law, which notice shall be served by the new sheriff, and the former sheriff shall, thereupon, transfer and deliver to the new sheriff all the writs, process, and papers belonging to his office, except as hereinafter excepted, and also the possession of the court house, and jail of his county, and shall take from the new sheriff, a receipt specifying the papers so delivered over, and the prisoners in custody, if any, which receipt shall be sufficient indemnity to the person taking the same.

SEC. 16. Every sheriff, going out of office, at the expiration of his term, and having any writ of *fieri facias*, or fee bill, which he may have levied, but not collected, or any tax list, uncollected, shall be and hereby is authorized to proceed on and collect such execution, fee bill, or tax list, in the same manner as if his office had not expired.

SEC. 17. Sheriffs, and jailors, shall receive from any constable, or other officer, without taking anything therefor, and safely keep in prison, all felons indicted, or taken in the fact, who shall be taken by any constable, or other officer, and shall not, of their own authority, let out of prison any person in their custody, by virtue of any process, for any felony, or

upon any condemnation, or committed by special order, of any court, or justices, upon pain of being punished by fine and imprisonment, and to answer the damages of the party aggrieved, if any be thereby aggrieved.

SEC. 18. It shall not be lawful for any sheriff, or jailor, to confine male and female prisoners, who are, or shall be imprisoned, except husband and wife, in any jail in this Territory, in the same prison room, and in case any sheriff, or jailor, shall offend in the premises, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined at the discretion of the court, before whom such conviction shall be had.

SEC. 19. All prisoners who shall be committed to any prison, shall be actually detained within such, until they shall be from thence discharged, by due course of law, and if at any time the keeper of any prison permit, or suffer any prisoner committed to his custody to go, or to be at large, out of his prison, except by virtue of some writ of *habeas corpus*, or otherwise, agreeably to law, every such going or being out of prison, shall be adjudged, and is hereby declared, an escape.

SEC. 20. If any sheriff, or any keeper of any prison, shall take any sum of money, reward, or gratuity whatsoever, or any security for the same, to procure, assist, connive at, or permit any escape of any person in his custody, and shall be thereof lawfully convicted, every such sheriff, or keeper, shall, for every such offence, forfeit the sum of two hundred and ninety dollars, and liable to all the pains and penalties of perjury, and be forever after incapable of executing the said office.

SEC. 21. That whenever the commissioners of any county in this Territory, shall neglect or refuse to provide a sufficient jail for the confinement of prisoners, or where they shall fail to direct the necessary measures for the preservation of the prisoners, when confined in jail, then and in that case, it shall be the duty of the sheriff, and he is hereby authorized, with

the approbation of the judge of the district court, to employ such means for the safe keeping of all prisoners committed to his custody, either by repairs to the jails, or by confinement in some secure place within his county, and also, in his discretion, to provide for the health of the prisoners, as aforesaid.

Approved, January 21, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 441.*

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#### AN ACT DEFINING THE DUTIES OF COUNTY SURVEYORS.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be elected, in each county in this Territory, at the first general election, one county surveyor, and it shall be the duty of the Governor to commission such person, so elected, who shall continue in office two years from the time of his election: *Provided,* That an absence from the county six months, at any one time, shall be considered sufficient cause to declare the office vacant, unless the surveyor's family continue to reside in the county.

SEC. 2. Each and every surveyor shall, previous to entering on the duties of his office, take an oath, that he will faithfully and impartially discharge the duties of his office, to the best of his skill and judgment, without favor or affection, which oath may be administered by any judge or justice of the peace, in the county, and shall be indorsed on his commission.

SEC. 3. Each and every county surveyor may appoint one or more deputies, who shall take an oath, similar to the one taken by the surveyor himself, and the surveyor shall be responsible for the official acts of his deputy.

SEC. 4. It shall be the duty of the said county surveyor to make all surveys, within the bounds of his county, that he may be called on to make, either by himself, or deputy, properly authorized by him, and competent to perform the same, within a reasonable time after application is made to him.

SEC. 5. All chain men necessary shall be employed by the person wanting surveying done:—They shall be good and disinterested persons, to be approved of by the surveyor, and they shall be sworn by the surveyor to measure justly and exactly to the best of their knowledge.

SEC. 6. It shall be the duty of county surveyors, previous to making any survey under the authority of this act, to furnish themselves with the field notes of the original survey, of the lands that they may be called on to survey, and all surveys, made by a county surveyor, shall be made according to the original survey. For the purpose of perpetuating every survey, the surveyor shall be required to establish his corners, by taking bearing trees, and noting particularly their course and distance, and where there are no trees within a reasonable distance, the surveyor shall perpetuate his corners by erecting mounds: *Provided*, In all cases, where it shall be practicable, the surveyor shall require the person having the survey made, to furnish suitable stone, which stone shall be permanently placed at each corner in the ground. The surveyor shall furnish the proprietor of every tract of land with a copy of the original field notes of every tract of land he may survey. It shall also be the duty of the county surveyor to furnish himself with a well bound book, in which he shall carefully and legibly record and note down every survey made by him, giving the name of the person the survey of whose land is so recorded, and describing, as near as practicable, the metes and bounds of the lands, and noting the date on which the survey was made, and such record shall be subject to the inspection of every person who may be interested in the same, and a certified copy thereof, under the hand of the surveyor, shall be admitted as *prima facie* evidence in any court of record in this Territory.

SEC. 7. It shall be the duty of every county surveyor, or other person having the official record of such surveyor in his possession, to deliver it up to his successor when demanded; and every person having possession aforesaid, refusing the

same, when demanded, shall forfeit and pay one dollar for every day he may detain it after demand, to be recovered by any person who may sue for the same before any justice of the peace of the proper county, one-half to the person suing, and the other half to the use of the county.

SEC. 8. No act or record, by any surveyor, or his deputy, as aforesaid, shall be conclusive, but may be reviewed by any competent tribunal, in any case where the correctness thereof may be disputed.

SEC. 9. The county surveyors, respectively, shall be entitled to such compensation, from each person, to whom they have rendered their services, as surveyors, as may be, or now is, allowed by law.

Approved, December 25, 1838.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 450.*

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#### AN ACT CONCERNING VAGRANTS.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That every person, who does, or is suspected to, get his livelihood by gaming, and every able bodied person, who is found loitering, and wandering about, and not having wherewithall to maintain himself, by some visible property, and who doth not betake himself to labor, or some honest calling, to procure a livelihood, and all persons who may become chargeable to the county, and all other idle, vagrants, dissolute persons, rambling about, without any visible means of subsistence, shall be deemed, and considered, as vagrants.

SEC. 2. When any such person is found, in any county, any justice of the peace shall, from information, or from his own knowledge, issue his warrant to the sheriff, or constable, to bring such person before him, and if, upon examination, it shall appear to such justice, that he comes within the descrip-

tion of vagrants, agreeably to this act, he shall commit him to the jail of the county, until the next district court, unless he enters into bond, payable to the county treasurer, in the sum of fifty dollars, with sufficient security, or securities, to be adjudged of by the justice, for his appearance before the said court, and to abide the determination thereof; if, upon examination, it appears to the said court, that such person is within the description, and is a minor, they shall direct the sheriff to bind him to some person of useful trade, or occupation, until he shall arrive to the age of twenty-one years, the said court shall direct the sheriff to hire him out for any term not exceeding nine months: *Provided*, however, That if such person have a wife, or family, within the Territory, he shall be set at liberty, upon his entering into bond, with approved security, payable to the county treasurer, to return to his wife and family, and follow some useful employment for their maintainance and support.

SEC. 3. The money, arising from the hire of any vagrant, shall be applied, by the court, towards the payment of his debts; but if he shall not be indebted, or owe to the amount of his hire, the same, or the balance thereof, shall be paid to such vagrant, at the time his or their service expires, unless he shall have a wife, or children, in which event it shall be applied to their use; when any vagrant shall have entered into a bond and security, as last mentioned to the county treasurer, and the penalty thereof shall become forfeited, the court shall direct an execution to issue thereupon, having first given ten days' notice to the party, or parties, by *scire facias* that such execution will issue against the goods and chattels, lands and tenements of such security, the sheriff shall make distress and collect the amount as on other executions, and the money arising therefrom, shall be applied towards lessening the county tax.

SEC. 4. All the justices of the peace, within their respective districts, shall see that this act is executed, and all the sheriffs, and constables, within the several counties, shall give informa-

tion, to such justices, of all vagrants that may be, within their knowledge, in their respective districts, and grand jurors, employed for any county, shall make presentment of all such persons, within the county, as they may suspect to be vagrants, agreeably to this act, and, upon such presentment, the court shall direct some justice of the peace to issue his warrant, to bring such suspected persons before him, and, if upon examination, it appears, that they come within the description of vagrants, the same steps shall be taken against them, as heretofore directed to be taken against vagrants.

Approved, January 24, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 455.*

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#### AN ACT REGULATING WEIGHTS AND MEASURES.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the several boards of county commissioners, within this Territory, be, and they are hereby authorized, and required, to procure, for their respective counties, and at the expense of the same, a set of the following weights and measures, for the use of their county, that is: one measure of one foot, or twelve inches, English measure, so called; also, one measure of three feet, or thirty-six inches, as aforesaid; also, one half bushel measure, for dry measure, which shall contain one thousand seventy-five and one-fifth solid inches; also, one gallon measure, which shall contain two hundred and thirty-one solid inches, which measures are to be of wood, or any metal the court may think proper; also, one set of weights, commonly called avoirdupois weight, and sealed with the name, or initial letters of the county inscribed thereon; which weights and measures shall be kept by the clerk of the said court, of each and every county in this Territory, for the purpose of trying and sealing the weights and measures, used in their counties.

SEC. 2. As soon as the several courts of county commissioners shall have finished the weights and measures as aforesaid, they shall cause notice thereof to be given at the court house door, for one month, and any person who shall thereafter buy, or sell, any commodity whatsoever, by measure, or weights, that shall not correspond with the county weights, and measures, shall, for every such offence, being legally convicted thereof, forfeit and pay the sum of twenty dollars, for the use of the county where such offence shall have been committed, and also the costs, to be recovered before any justice of the peace for said county.

SEC. 3. Every person desirous of having their weights and measures tried, by the county standard, shall apply to the clerk of the county commissioners, and, if he find it corresponds with the county standard, shall seal the same, with the seal provided for that purpose, and said clerk shall be allowed to demand and receive such fees, as now, or hereafter may be, allowed by law.

SEC. 4. This act to take effect and be in force, from and after its passage.

Approved, January 4, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1838-39,  
p. 470.*

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AN ACT TO AUTHORIZE VINSON H. WAMSLEY AND BARNET RISTINE TO ERECT A DAM ACROSS THE CEDAR FORK OF SKUNK RIVER, IN THE COUNTY OF HENRY, IOWA TERRITORY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That Vinson H. Wamsley and Barnet Ristine are hereby authorized to erect a dam across the Cedar fork of Skunk river, in the county of Henry, in said territory, on the northwest quarter of section twenty-one, township seventy-one north, range seven west, which

dam shall not exceed six feet and a half high above low water mark: *Provided* the same shall not injure the mill of Lewis Watson on said stream.

SEC. 2. Any person who shall destroy or in any wise injure said dam, shall be deemed to have committed a trespass, and shall be liable accordingly, and any person who shall wilfully or maliciously destroy or injure said dam, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owner may have sustained, or be imprisoned, at the discretion of the court.

SEC. 3. Nothing herein contained shall authorize the individuals named in this act, their heirs or assigns, to enter upon and flow the lands of any person, without the consent of such person, and they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity.

Approved November 25th, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1839-40,*  
p. 3.

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AN ACT TO PROVIDE FOR THE ORGANIZATION OF THE COUNTY OF DELAWARE, AND TO LOCATE THE SEAT OF JUSTICE THEREOF.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county of Delaware shall be organized for county purposes, as other counties of this territory have heretofore been organized.

SEC. 2. The seat of justice of said county shall be located by three commissioners non-residents of said county, which said commissioners shall meet together on or before the first day of May next, eighteen hundred and forty, and forthwith proceed to examine into and determine upon the most eligible point for the county seat of said county, having reference, as far as practicable, to a central situation, and also to the convenience of the present and prospective population.

SEC. 3. The said commissioners shall, before they enter upon the performance of their said duties, take and subscribe before some district judge or justice of the peace the following oath, to wit: "I \_\_\_\_\_ one of the commissioners appointed to locate the seat of justice in and for the county of Delaware, do hereby swear before Almighty God, the searcher of all hearts, that I will perform the duties imposed by said appointment honestly and faithfully according to the best of my understanding and abilities, and according to the law relative to locating said county seat. And I do further swear as aforesaid, that I am not interested in said location in any manner whatever, present or in expectancy, but that in locating said county seat, I will be actuated only by a desire for the best interests of said county, without the slightest partiality towards any person or persons, and without any bias from fear, favor or recompense, or the hope of gain or advantage to myself in any respect whatsoever."

SEC. 4. So soon as convenient, not exceeding fifteen days after the location shall have been made, the said commissioners or a majority of them shall make out and return to the governor a full statement or report of the place selected, describing the same as fully as practicable, which report, together with the foregoing affidavits, shall be filed in the office of the secretary of the territory, to remain of public record.

SEC. 5. The county shall, so soon as said report shall be filed, be considered as a separate county, and shall have all the privileges and be subject to all laws and provisions now in force or that may be hereafter in force in regard to the counties of this territory, and shall proceed hereafter to elect their county officers at the same time and in the same manner as in other organized counties.

SEC. 6. The first general election shall be held for the whole county at the house of Wm. Eads, J. Schwartz and Morland, and thereafter the county shall be divided by the county commissioners elect into precincts at the first regular

meeting of their board after said first general election, so as to suit the convenience of the inhabitants generally. And the judges of said election shall seal up and direct the returns of the same to the clerk of the commissioners' court of Du Buque county, and the said commissioners shall proceed to open and canvass the said returns and enter the same upon their records, and shall issue certificates notifying the persons having a majority of votes for the different offices.

SEC. 7. The commissioners appointed to locate the seat of justice as aforesaid, shall receive three dollars per diem for the time they shall be actually engaged in locating the same, not exceeding ten days, together with three dollars for every twenty miles travel in going and returning to and from said county.

SEC. 8. S. B. Umstead, of Clayton county, Shadrach Burliston, of Jackson county, and Paul Cain, of Du Buque county, shall [be] and they are hereby appointed commissioners to locate said county seat under the provisions of this act.

Approved, December 20, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 9.

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**AN ACT TO DISTRICT THE COUNTY OF HENRY INTO THREE COUNTY COMMISSIONERS' DISTRICTS.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the said county shall be divided into three county commissioners' districts, as follows, to wit: that all that portion of the county of Henry that is included in range five, shall be known as district number one, and all that portion of said county that is included in range six shall be known as district number two, and that portion of said county which is included in range seven shall be known as district number three.

SEC. 2. *Be it further enacted,* That at the next general election there shall be elected from district number one, one

county commissioner, and that thereafter annually there shall be elected from each district one county commissioner alternately, according to provision of the law regulating general elections.

Approved, December 23, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
*p. 10.*

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#### AN ACT RELATIVE TO CORONERS AND THEIR DUTIES.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be elected in each of the organized counties of this territory, at the time and place of holding the general election, a coroner, who shall hold his office for two years and until his successor is elected and qualified. He shall, before exercising any of the duties of his office, take an oath faithfully to fulfill the duties of such office; and when called upon to exercise the duties of sheriff, he shall execute such bond and security as the clerk of the district court may require.

SEC. 2. It shall be the duty of the coroner to execute all process in his county in all cases when just exception can be taken to the sheriff or his deputy, or when there is no sheriff.

SEC. 3. In all cases upon affidavits being made and filed in any court of record in this territory, of the partiality, prejudice, consanguinity or interest of the sheriff or of the deputy of the sheriff of any county when suit is about to be brought or shall have been commenced, it shall be the duty of the clerk to issue and direct original or other process in the suit that would regularly go to such sheriff or deputy, to the coroner, who shall execute the same and attend to the same throughout in the same manner as the sheriff could or ought to have done.

SEC. 4. The partiality, prejudice, consanguinity or interest of the sheriff or deputy, shall not be cause for change of venue, but the coroner shall perform the duties above described, or

if there should be no coroner, some proper person to be appointed by the clerk shall supply the place of the sheriff in like manner as the coroner is hereby required to do.

SEC. 5. That coroners shall take inquest upon the view of the dead bodies of such persons only as shall be supposed to have come to their death by violence or undue means, and not when the death is believed to have been and evidently was occasioned by casualty.

SEC. 6. That as soon as any coroner shall have notice of the dead body of any person supposed to have come to his death by violence or undue means found or lying within his county, he shall make his warrant to any constable of the county where such body is, requiring such constable forthwith to summon six good lawful men of the county, to appear before such coroner at the time and place expressed in such warrant, and the warrant may be issued with or without a seal, and in substance as follows:

Territory of Iowa,  
County, ss.

To any constable of said county greeting: In the name of the United States of America, you are hereby required to summon immediately six good and lawful men of your county, to appear before me, one of the coroners of said county, at the dwelling house of (or describe the place where to meet,) then and there to inquire upon the view of the body of there lying dead, and by what means he came to his death. Hereof fail not.

Given under my hand the day of A. D. 18 .  
*Coroner.*

SEC. 7. That the constable to whom such warrant shall be directed and delivered shall forthwith execute the same, and shall, at the time mentioned in the warrant, repair to the place where the dead body is, and make return thereof to the coroner, and of his doings thereon under his hand; and any constable who shall unnecessarily neglect or fail to execute or return such warrant shall forfeit the sum of ten dollars; and

if any person summoned as a juror shall fail to appear without a reasonable excuse therefor he shall forfeit the sum of five dollars; which forfeitures may be recovered to the use of the county with costs of suit, by action of debt, or on the case, to be brought by the coroner.

SEC. 8. That when the jurors summoned appear the coroner shall call over their names, and then in view of the body he shall administer to them the following oath: "You solemnly swear that you will diligently inquire, and true presentment make, on behalf [of] the United States of America, when, and how, and by what means the person whose body here lies dead came to his death; and you shall return a true inquest thereof according to your knowledge and such evidence as shall be laid before you, so help you God." If the six jurors shall not all appear, the coroner may require the constable or any other person whom he shall appoint to return jurors from the bystanders to complete that number.

SEC. 9. The coroner may issue subpoenas for witnesses returnable forthwith, or at such time and place as he shall therein direct. The persons served with such subpoenas shall be allowed the same fees, and their attendance may be enforced in the same manner by the coroner, and they shall be subject to the same penalties as if they had been served with a subpoena in behalf of the United States of America, to attend a justice's court.

SEC. 10. That an oath to the following effect shall be administered to the witnesses by the coroner: "You solemnly swear that the evidence you shall give to this inquest, concerning the death of the person here lying dead shall be the truth, the whole truth, and nothing but the truth, so help you God."

SEC. 11. That the testimony of all witnesses examined before any inquest shall be reduced to writing by the coroner or some other person by his direction, and subscribed by the witnesses respectively giving it in.

SEC. 12. That the jury, upon inspection of the dead body and after hearing the testimony and making all needful inquiries, shall draw up and deliver to the coroner their inquisition under their hands, in which they shall find and certify when, how and by what means the deceased person came to his death, and his name, if it was known, together with all the material circumstances attending his death; and if it shall appear that he was murdered the jurors shall further state who were guilty either as principal or accessory, if known, or were in any manner the cause of his death, which inquisition may be in substance, as follows:

“ ss. An inquisition taken at , in county, on the day of A. D. 18 , before said county of one of the coroners of the body of (or a person) there lying dead, by the oath of the jurors whose names are hereunto subscribed, who being sworn to inquire on behalf the United States of America, when, how, and by what means the said came to his death, upon their oaths do say (then insert when, how and by what person, means, weapon, or instrument he was killed,) in testimony whereof the said coroner and jurors of the inquest have hereunto set their hands the day and year aforesaid.”

SEC. 13. That if the jury find that any murder, manslaughter, or assault has been committed on the deceased, the coroner shall bind over by recognizance such witnesses as he shall think proper to appear and testify at the next court to be held in the same county at which an indictment for such offence can be found; he shall return to the same court the inquisition, written evidence, all recognizances and examinations by him taken; and may commit to the jail of the county any witnesses who shall refuse to recognize in such manner as he shall direct.

SEC. 14. That if any person charged by the inquest with having committed such offence shall not be in custody,

the coroner shall have the same power as a justice of the peace, to issue process for his apprehension; and such warrant shall be made returnable before any justice of the peace, or other magistrate or court having cognizance of the case, who shall proceed therein in the same manner that is required of justices of the peace in like cases.

SEC. 15. That when any coroner shall take an inquest upon the view of the dead body of a stranger, or being called for that purpose shall not think it necessary, on view of such body, that any inquest should be taken, he shall cause the body to be decently buried, and all expenses of the inquisition and burial shall be paid by the county in which such dead body shall be found.

SEC. 16. That in case of the absence of the coroner, any magistrate being notified of any dead body as before mentioned, shall be authorized and required to perform the duty of the coroner as pointed out in this act.

SEC. 17. That the coroner, as soon as the verdict of the jury shall have been rendered, shall take immediate measures to have the body buried, the expense attending the burial to be paid out of the deceased person's estate, if sufficient there be, if not by the county: *Provided, however,* That if the friends of the deceased shall request to have the body to bury at their own expense, the coroner shall deliver it to them.

SEC. 18. It shall not be lawful for any person to bury or cause to be buried the body of any person whatsoever that may have come to its death by unlawful violence or other suspicious cause without first giving notice to the coroner of his county of such death, or in case the coroner is absent or cannot be had, to some justice of the peace. Every person so offending shall be liable to the sum of fifty dollars, to be recovered before any proper tribunal, one half to the use of the county, and the other half to the use of any person who will sue for the same.

Approved December, 23, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1839-40.*  
p. 11.

AN ACT TO PROVIDE FOR THE APPOINTMENT OF NOTARIES PUBLIC, AND TO PRESCRIBE THEIR DUTIES.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the governor of this territory by and with the advice and consent of the Council, may appoint and commission one or more notaries public in each organized county, who shall hold their office three years, unless sooner removed.

SEC. 2. Each notary public, so soon as he receives his commission, shall repair to the office of the clerk of the district court of his proper county and give bond to the governor in the sum of five hundred dollars, with sufficient security to be approved of by such clerk, conditioned for the due and faithful performance of his duty as notary public, which bond shall be filed in the office of the clerk, and, if forfeited, be sued for in the name of the territory and for its use.

SEC. 3. It shall be the duty of each notary public whenever any bill of exchange, promissory note, or other written instrument shall be by him protested for non-acceptance or non-payment, to give notice thereof in writing to the maker and indorsers of any bill of exchange, and to the maker, and each security or indorser of any promissory note or written instrument immediately after such protest shall have been made.

SEC. 4. It shall be the duty of each notary public to keep a correct record of all such notices, and of the time and manner in which the same shall have been served, and of the names of all the parties to whom the same were directed, and the description and amount of the instrument protested, which record shall, at all times, be competent evidence to prove such notice in any trial before any court in this territory; and to all the attestations, protestations and other instruments of publication of the said notaries public, due faith shall be given.

SEC. 5. It shall be the duty of the notary public, personally, to serve the notice upon the person protested against, provided said person reside within two miles of the office of

such notary public; but if said person reside more than two miles from such office then the said notice may be forwarded by the first mail or other safe conveyance.

SEC. 6. Each notary public shall procure a seal which shall be called the "notarial seal," and he shall have full power and authority to administer oaths and take acknowledgements or proofs of deeds, mortgages, powers of attorney, and other instruments of writing, with or without the release and assignment of dower.

SEC. 7. On the death, resignation or removal from office of any notary public, his records, together with all his official papers, shall be deposited in the office of the clerk of the district court for the same county in which said notary public resided.

SEC. 8. If any notary public, on his resignation or removal from office, shall, for the space of three months, neglect to deposit his records and official papers in the clerk's office, he shall forfeit a sum not exceeding five hundred dollars.

SEC. 9. If the executor or administrator of any deceased notary public, shall, for the space of three months after his acceptance of such appointment, neglect to deposit in the clerk's office the records and official papers of such deceased notary, which shall come into his hands, he shall forfeit a sum not exceeding five hundred dollars.

SEC. 10. The several clerks of the district court shall receive and safely keep all the records and official papers of any notary public which are in this act directed to be deposited in the office of said clerks.

SEC. 11. Said clerks shall make and certify copies of any records and official papers of any notary public deposited with them, for which copies they shall be paid the same fees that such notary public would have been entitled to: and all copies certified by the said clerk shall have the same effect in law as if they had been certified by such notary public.

SEC. 12. If any person shall knowingly destroy, deface, or conceal any records or official papers of any notary public,

he shall forfeit a sum not exceeding one thousand dollars, and moreover be liable in damages to any party injured.

SEC. 13. When any forfeiture is incurred by this act, it may be recovered by action of debt in the name of the territory and for its use.

Approved December 24, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
*p. 14.*

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AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY TREASURERS AND TO DEFINE THEIR DUTIES.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be elected at the general election annually, in each county in this territory, a treasurer, who shall immediately on the receipt of a certificate notifying him of his election, take an oath faithfully to perform his trust and give bond, with security to the satisfaction of the board of county commissioners, payable to said board in their corporate name, conditioned for the faithful discharge of the duties of his office, that he will account for all moneys that may come into his hands as treasurer, that he will deliver unto his successor in office all books, papers documents and other things which he may hold by virtue of his office, and that he will pay him the balance of all moneys due the county. And said treasurer shall hold his office for the term of one year and until his successor shall be elected and qualified.

SEC. 2. It shall be the duty of the treasurer to receive all moneys due and accruing to the county, to pay and disburse the same on orders drawn by the board of county commissioners of the proper county attested by the clerk, and not otherwise. The said treasurer shall keep a true and just account of all moneys received and disbursed, and hold and keep the same at all times ready for the inspection of the board, and shall at every regular term of said board furnish

them with a statement thereof balanced to the first day of said term, showing all the moneys received and disbursed by him since his last settlement and the balance remaining in his hands, together with the arrearages of taxes in the hands of the collectors. He shall, moreover, once in every year, settle his accounts with the said board, and produce his vouchers, which being allowed, shall be cancelled by them, by writing the word "cancelled" on the face of such order, which shall be retained and filed by the clerk of said board.

SEC. 3. It shall moreover be the duty of said treasurer, as soon as he shall have received from the clerk of said board a statement of the amount of taxes put into the hands of the sheriff or collector of his county or any of his predecessors, and which shall not have been accounted for, forthwith to proceed to collect, in the name of the county commissioners, from said delinquent, his sureties, heirs, executors or administrators, the sum or sums in arrear and due from him or them to the county, and in like manner when such treasurer shall be furnished by the clerk with a statement of jury fees, fines and forfeitures received by any officer, he shall forthwith proceed to collect the same, and place the same when collected to the credit of the county.

SEC. 4. County orders, when properly attested, shall be entitled to preference as to payment according to the order of time in which they may be presented, and upon the receipt of money into the treasury, it shall be the duty of the treasurer to appropriate and set apart the same for the discharge of such county orders so presented: *Provided, however,* That the county treasurer is hereby required to receive of any collector all county orders which such collector may have received in payment of county tax, without regard to the priority of number of any such order or orders: *And provided,* That when two or more orders are presented at the same time, preference shall be given to the order of the oldest date.

SEC. 5. That the county treasurer shall have for his ser-

vices one and a half per centum for all moneys received, and one and one half per centum for all moneys paid out for the county, excepting moneys arising from the sale of town lots at the county seats, in which case he shall receive no more than two per cent for both receiving and paying out the same.

SEC. 6. In case the treasurer chosen shall decline accepting the office, or after accepting, shall die, or resign, or remove out of the county within the year, or shall from any cause become incapable of discharging the duties of his office, the board of county commissioners shall appoint a suitable person, being a resident of the same county, to fill such vacancy; and the person appointed, being sworn to the faithful discharge of the trust and giving bond as before directed, shall be treasurer of said county for the remainder of the year, and until another shall be chosen and qualified in his stead.

SEC. 7. That hereafter it shall be the duty of any person or persons who may intend to exhibit to public view or show any animal or animals, wax work or other figures, rope or wire dancers, feats of circus riding, or slight of hand for gain, to apply to the treasurer of the county where such exhibition is to be made, and pay the said treasurer not less than ten nor more than fifty dollars, at the discretion of the said treasurer, who shall receipt for the same, which receipt shall be forthwith filed with the clerk of the board of commissioners of the proper county, who is hereby required to make out his permit under the seal of the said county, for which said clerk shall be entitled to receive, as a fee, one dollar, to be paid by such applicant, and the said permit shall be a sufficient authority for such applicant to show or exhibit such animals, wax work, or other things during his stay in said county, provided that such stay shall not exceed one month, and further provided, that nothing in this act contained shall prevent any board of trustees of any incorporated town from taxing such exhibition agreeably to their corporate laws and ordinances passed in pursuance thereof.

SEC. 8. All county taxes arising from tavern licenses or otherwise, shall be paid to the county treasury.

SEC. 9. All sheriffs, coroners, constables, clerks, county treasurers, collectors, assessors, justices of the peace and county commissioners, shall be required and it is hereby made their duty to cause to be prosecuted any person or persons who shall violate any of the provisions of this act.

SEC. 10. Any person who shall violate the provisions of the seventh section of this act, shall be prosecuted before any justice of the peace, and fined in any sum not less twenty-five dollars nor more than fifty dollars.

SEC. 11. The treasurers of the several counties may, in their own names and official capacity, prosecute to final judgment and execution any suits upon bonds, notes, and other securities given to their predecessors in office, and any suits commenced by their predecessors in office, and pending at their removal therefrom; and they may also prosecute for any injuries done to the lands, buildings, or other property of their county.

SEC. 12. The treasurer in each county may appoint a deputy, for whose acts he shall be responsible, and who shall take an oath for the faithful performance of the duties of his office.

Approved December 24, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*,  
p. 16.

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AN ACT TO MAKE VALID IN LAW THE ACTS OF JOHN C. MATHER, DONE AND PERFORMED BY HIM AS COUNTY SURVEYOR OF THE COUNTY OF HENRY, AND TERRITORY OF IOWA.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all and every official act of John C. Mather, done and performed by him in accordance with the law constituting the office of county

surveyor, and defining his duties, by virtue of his appointment as county surveyor in and for the county of Henry aforesaid, during the time he has held the same and performed the duties thereof, be and the same are hereby declared to be good and valid in law, as if the said appointment had been properly the right of said county commissioners according to law: *Provided, however,* That nothing in this act shall be so construed as to permit said John C. Mather to hold said office longer than until his successor shall be elected and qualified according to law in such cases made and provided.

Approved December 30, 1839.

—Reprinted from *Laws of the Territory of Iowa, 1839-40,*  
p. 18.

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AN ACT TO RELOCATE THE SEAT OF JUSTICE IN AND FOR THE COUNTY OF CEDAR.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That Henry W. Wiggins, of Scott county, and J. G. McDonald, of Jackson county, and John Eagan, of Johnson county, be and they are hereby appointed commissioners to relocate and establish the seat of justice in and for the county of Cedar.

SEC. 2. The said commissioners shall, before they enter upon their duties as commissioners, take and subscribe before some district judge or justice of the peace, the following oath, to wit:

“I , one of the commissioners appointed to locate the seat of justice in and for the county of Cedar, do hereby solemnly swear (or affirm) that I will perform the duties imposed on me by said appointment, honestly and faithfully according to the best of my abilities, and according to the law relative to locating said county seat; and I do further swear (or affirm) that I am not directly or indirectly interested in said location, but that in locating said county seat, I will be actuated only by a desire for the best interests of said county,

without the slightest partiality towards any person or persons, and without bias from fear, favor, or recompense, or the hope of any gain or advantage to myself in any respect whatsoever."

SEC. 3. The said commissioners or a majority of them, shall meet at the town of Rochester, on the second Monday in March next or as soon as possible thereafter, and shall forthwith proceed to examine into and determine upon the most eligible point for the county seat of said county; and if, upon examination, the point where the seat of justice is now located be deemed by said commissioners as convenient and eligible a location as can be found, then they shall re-locate said seat of justice at that place, but if otherwise, they shall proceed to locate the same as near the geographical center of said county as the most eligible situation can be found, combining the advantages of health, convenience of timber, and facility of obtaining water, together with the proper accommodation of the inhabitants.

SEC. 4. So soon as said commissioners shall have determined upon the place where said seat of justice shall be located, it shall be the duty of said commissioners to name said seat of justice by such name as they may think proper, and forthwith to commit their proceedings to writing, and sign the same, and file them with the clerk of the district court of said county, whose duty it shall be to record the same in the record book, and the place thus selected shall be the seat of justice of said county.

SEC. 5. Said commissioners shall receive three dollars per diem for the time they shall be actually engaged in the location of the said seat of justice, not exceeding ten days, and three dollars for every twenty miles travel going to and returning from said county seat, to be paid out of the treasury of the county of Cedar.

SEC. 6. *Be it further enacted,* That in case of vacancy by death or otherwise in said board of commissioners, it shall be the duty of the county commissioners in the county where

such vacancy shall occur, to appoint some suitable person who shall be duly authorized to perform the duties of said commissioners, who shall be required to take the oath as required in this act.

Approved December 31, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 23.

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AN ACT TO RELOCATE THE SEAT OF JUSTICE OF THE COUNTY OF JOHNSON.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of county commissioners in the county of Johnson are hereby authorized to re-locate and establish the seat of justice for the county of Johnson, being first sworn by any judge or justice of the peace thereof faithfully and impartially to re-locate and establish the seat of justice of said county, taking into consideration the future as well as the present population of said county.

SEC. 2. Said board of commissioners shall, at or within ninety days after the next regular meeting of their said board, proceed to re-locate said seat of justice, and so soon as they have made a re-location, they shall commit their proceedings therein to writing, and order the same to be spread upon their records by the clerk of the said board, whose duty it shall be to record the same, and the place selected shall be the seat of justice for said county.

Approved December 31, 1839.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 25.

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AN ACT FOR THE RELIEF OF THE SHERIFF OF JACKSON COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the sheriff of

Jackson is hereby allowed until the fifteenth day of May, eighteen hundred and forty, to collect the taxes in said county for the year eighteen hundred and thirty-nine.

SEC. 2. That the said sheriff of Jackson county is hereby authorized to collect from the citizens of the counties of Jones and Linn, the amount of taxes owing to the county of Jackson for the year eighteen hundred and thirty-eight.

Approved January 4, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 26.

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#### AN ACT REGULATING GROCERY LICENSE.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That any person wishing to obtain a license to keep a grocery, shall apply to the board of county commissioners of the proper county, who shall issue their warrant directing the person so applying, to pay into the county treasury, a sum not exceeding one hundred nor less than twenty-five dollars, as the case may be, in the discretion of the board, and obtain the treasurer's receipt for the same, and upon the presentation of such receipt, the board shall grant to such applicant a license to keep a grocery in said county for the term of one year, by the said applicant executing a bond to the said board in the penalty of one hundred dollars, with one or more sufficient securities, conditioned that he will keep an orderly house, and that he will not permit any unlawful gaming or riotous conduct in or about his house, and upon a violation of the requisitions herein contained, the person so offending shall pay a fine of not less than ten nor more than fifty dollars, for the use of the county in which the offense was committed, to be recovered by law, as debts are recovered.

SEC. 2. License granted to keep a grocery, shall not authorize the person obtaining such license to vend or sell spirituous or vinous liquors in more than one place or house at the same time.

SEC. 3. A grocery shall be deemed to include any house or place where spiritous or vinous liquors are retailed by less quantities than one gallon.

SEC. 4. If any person shall sell or retail any spiritous or vinous liquors in less quantity or quantities than one gallon without first having obtained a license agreeably to this act, he shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars nor less than fifty dollars, for the use of the county where the offense shall have been committed, to be recovered by motion, in any court of record having cognizance thereof.

SEC. 5. And it [is] hereby made the duty of all county officers, knowing of any violation of the foregoing regulations of this act, to make complaint thereof to the grand jury, at the next session of the district court after such violation, and of the clerk of the board of county commissioners or county treasurer to sue on the bond for any violation of its conditions: *Provided however*, that no provisions of this act shall be so construed as to interfere [with] or in any way abridge the powers and privileges granted to the cities and incorporated towns within this territory.

SEC. 6. All laws now in force coming within the purview of this act are hereby repealed: *Provided*, That nothing contained in this act shall affect any licenses heretofore granted under the laws of this territory.

SEC. 7. This act to take effect and be in force from and after the first day of June next.

Approved January 4, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
*p. 27.*

#### AN ACT TO ENCOURAGE THE DESTRUCTION OF WOLVES.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa, That the board of commissioners of the several counties in this territory, be and*

they are hereby authorized and empowered, at their discretion, to offer a reward of not less than twenty-five cents nor over one dollar, to any person who shall kill any wolf within their respective counties, not exceeding six months old, and the sum of not less than fifty cents nor more than three dollars for every wolf over that age. And the commissioners aforesaid may renew or withdraw the offer of the above bounties from time to time, as in their discretion they may deem expedient, by publishing notices thereof in at least three public places within their respective counties.

SEC. 2. Any person claiming the benefit of this act, shall produce before some justice of the peace for the county where such wolf was killed, the scalp, with the ears thereon, and the justice shall administer to such person, the following oath, to wit: "You do solemnly swear that the scalp now produced by you was taken from a wolf killed by you in this county; that you did not bring the same into this county from any other place, and that you believe that said wolf was more (or less as the case may be) than six months old, and that said wolf was killed on or about" (here state the time when.) Said justice shall thereupon grant to said person a certificate, stating the name of the killer, the age of the wolf, and the time when killed; and said justice shall receive, for his services above mentioned, twelve and one-half cents. And it shall be the duty of said justice to destroy the scalp upon granting such certificate.

SEC. 3. When any certificate granted under the provisions of this act is presented to the board of county commissioners of the county where the certificate was issued; said board of commissioners shall order that the person presenting said certificate to be paid out of the county treasury, the sum to which he is entitled under the provisions of the first section of this act.

Approved January 7, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40,*  
p. 34.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ORGANIZE THE COUNTY OF LINN AND ESTABLISH THE SEAT OF JUSTICE THEREOF."

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county treasurer of the county of Linn be and he hereby is instructed to pay to Benjamin Nye of Muscatine county, and Richard Knott of Cedar county, the sums due them under the sixth section of an act entitled "An act to organize the county of Linn and establish the seat of justice thereof," approved January 15, 1839.

Approved, January 7, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
*p. 42.*

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AN ACT TO REGULATE FERRIES IN CERTAIN CASES.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That hereafter, when any charter shall have been granted to any person to keep a ferry across the Mississippi river, at any incorporated city or town in this territory, shall, by reason of nonuse or misuse of such franchise, be, by a competent tribunal declared forfeited, that, to prevent a public inconvenience, it shall be competent for the corporation of such city or town to take charge of such ferry, to provide suitable water crafts, and keep the ferry in a proper manner until another charter can be obtained from the legislative assembly.

SEC. 2. That any such corporation, during the time they shall have such ferry in their charge, shall be entitled to like privileges and be liable in like manner for the faithful keeping thereof as the person was to whom such charter had been granted. And such corporation may charge and receive like rates of ferriage.

SEC. 3. That the several boards of county commissioners

are hereby empowered to grant licenses for keeping ferries on said Mississippi river, at such places as are not provided for by charter in like manner and under like regulations provided in this act and the "Act to regulate ferries," approved December twentieth, eighteen hundred and thirty-eight.

SEC. 4. That no license shall be granted to keep a ferry on said Mississippi river, within two miles of any other licensed or chartered ferry.

SEC. 5. That in all cases in this territory, if the board of county commissioners shall, at any time, grant a license to a person who has not before kept the ferry, the said grantee shall purchase the boats of the previous keeper at the appraisal of three disinterested persons appointed by said board, if such appraisers shall adjudge said boats to be good and sufficient for the use of said ferry.

Approved, January 8, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 43.

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AN ACT TO ENABLE THE CITIZENS OF DES MOINES COUNTY  
TO ESTABLISH THE SEAT OF JUSTICE FOR SAID COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be an election held in the several precincts within said county, on the first Monday of March next, at which said election each and every qualified voter in said county shall have the right to vote. That said election shall be conducted in all respects agreeably to the law regulating general elections, and the poll books returned to the office of the clerk of the board of county commissioners, and by him opened in the same manner that the poll books of the general elections are opened and canvassed and the result thereof proclaimed.

SEC. 2. That the votes shall be confined to two points only, that is to say, the center, or Burlington, and those voting at said election shall vote by ballot. Those in favor of the

center will write or print on their ticket the word "centre," and those in favor of Burlington shall write or print on their ticket the word "Burlington," and if a majority shall be in favor of the centre, then it shall be the duty of the county commissioners to proceed to make selection of a suitable site at or as near the centre as a good situation can be had, on which the seat of justice shall be located, but should the majority be in favor of Burlington, then and in that case Burlington shall be the seat of justice for said county.

SEC. 3. That no elector shall vote out of his precinct in casting his vote for the establishment of the county seat of Des Moines county.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved, January 9, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 45.

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#### AN ACT TO PROVIDE FOR THE ORGANIZATION OF TOWNSHIPS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of county commissioners of any county within this territory, may hereafter, when they shall deem it expedient, previous to any general election in this territory, give at least fifty days' notice in the usual manner of advertising elections in this territory, that the question will be taken by ballot at such election, to ascertain whether a majority of the electors of the county are in favor of the adoption of a township organization by said county.

SEC. 2. It shall be the duty of the judges of such election to provide a separate ballot box to receive the votes upon the aforesaid question. The votes in favor of such organization shall be written thus "organization," those to the contrary, thus, "no organization."

SEC. 3. It shall also be the duty of the judges to make a

certified return of the number of votes for and against such organization to the clerk of the board of county commissioners of such county, in the manner that is prescribed in the law with regard to general elections; and it shall be the duty of said clerk to present said return to the said board of county commissioners at their next meeting.

SEC. 4. Should it appear to the said board of county commissioners that a majority of the votes given at said election upon the question of township organization, were in favor of such organization, they shall proceed to organize the county into townships according to the provisions of this act.

SEC. 5. They shall divide the county into townships, of such shape and size as the convenience and the interests of such county would seem to demand, confer upon each township such name as the inhabitants may prefer, and appoint the place within each township where the first meeting of the electors shall be holden. The clerk of the said board shall record the time when each township was set off, its name, and a particular discription of its boundaries.

SEC. 6. On the first Monday of April annually thereafter, the electors of each township shall assemble at some place within the township at the hour of ten A. M., and when eight or more electors shall have assembled, they shall elect from their number by ballot, a chairman, whose duty it shall be to preside over the meeting, and to direct any constable present to remove or arrest any disorderly persons, and, if necessary, to confine them until the close of the meeting. And it is hereby made the duty of any such constable to obey such orders. Said electors shall then proceed to elect in the same manner, two persons, having the qualifications of electors, as judges of the election, who shall take an oath or affirmation faithfully to discharge the duties of their office.

SEC. 7. The first meeting of the electors of any township shall be held at the place appointed by the board of county commissioners. But all future meetings shall be held at such place as the trustees of the township may direct.

SEC. 8. That after the election of a chairman and judges in manner aforesaid, the electors shall proceed to the election of one township clerk, three trustees, two overseers of the poor, two fence viewers, a sufficient number of supervisors of highways, two constables, and one township treasurer, which several officers shall continue in office until their successors shall be chosen and qualified, and shall, on their respective appointments, take an oath or affirmation faithfully and impartially to discharge the duties of their respective offices.

SEC. 9. That it shall be the duty of the township clerk to keep fair and accurate records of all the public transactions of the township meetings, to make out, within two days after the election of township officers, a list of all those of whom by law oaths are required, stating the offices to which they are respectively chosen, and the same deliver to a constable of the township, requiring such constable forthwith to summon such officers to appear before a justice of the peace or before such clerk within ten days, to take such oaths or affirmations as may be by law required, which oaths or affirmations the said clerk is authorized to administer, and of which he shall make a record; and in case any township officer shall take the oath of office before any justice of the peace, such justice shall file a certificate thereof with the clerk of the township, who shall make a record of the same.

SEC. 10. That it shall be the further duty of the township clerk to record in a book to be provided by him for that purpose, all private roads and cartways by the trustees established, together with the ear marks of all cattle, sheep, and hogs, and such other marks and brands as any person may wish to have recorded in the said township, but he shall not record the same mark to two different persons. And the said clerk shall be entitled to receive of the person employing him as aforesaid, for such entry of marks or brands, the sum of twenty-five cents, and shall deliver a certified copy of such entry to the owner, if required, and he shall be entitled to receive for recording private roads and cartways, for every sheet of one

hundred words, ten cents, payable by the person at whose request the said record is to be made.

SEC. 11. That it shall be the duty of the trustees, within twenty days after each annual township meeting, to divide their respective townships into districts, allotting to each supervisor one district, and it shall be the further duty of the said trustees to settle the accounts of the supervisors of highways and overseers of the poor, and to examine and settle all accounts and demands against the township; for which purpose the said trustees, supervisors, overseers of the poor, and township clerk shall meet on the first Monday of March annually, at the place of holding the township meetings; and it shall be the duty of the township clerk to make an entry and true statement of all accounts allowed and adjusted by the trustees, in a book to be provided for that purpose; and for every demand against the township, allowed by the trustees, the creditor shall be entitled to receive from the said trustees an order on the township treasurer for the full amount thereof on demand.

SEC. 12. That each and every township, whenever and so often as the major part of the whole number of electors in said township shall deem it expedient, shall have power and authority to lay a tax: *Provided*, That such articles only shall be subject to taxation as are made liable by the laws for assessing and collecting county revenue, and that the amount of the tax so laid shall not exceed what might be laid on the same articles for county purposes; and it shall be the duty of the township clerk to make out from the county assessment roll for the township, an assessment of the tax voted by the township, a duplicate whereof he shall deliver, within twenty days, to such constable of the township as the trustees shall direct, and the other within the like time to the township treasurer, and the constable receiving such tax to collect shall, before he commences the collection thereof, give bond with two sufficient sureties to the township treasurer, conditioned to collect and pay over to the said treasurer or his successor

in office, the amount of said tax within four months, and in case the said constable shall neglect and refuse to collect and pay over the whole amount of such tax within the time specified in said bond, it shall be the duty of the township treasurer, after giving ten days written notice to said constable and his sureties, to proceed in a summary way by motion before the district court, and recover the amount due from such constable, with twenty per cent. damages thereon for such neglect or refusal, and shall have execution therefor against said constable and his sureties. And the constable collecting the township tax shall receive like compensation as the county collector receives for like services.

SEC. 13. That at least twenty days before the annual township meeting, the trustees shall issue their warrant to a constable of the township directing him to notify the electors of such township to assemble at the time and place appointed for their annual meeting, and said warrants shall enumerate the officers to be chosen at such meeting, and on the application of two or more freeholders of the township, for that purpose, said trustees shall insert in said warrant such other business, matter, or thing as may be proposed to be submitted to said township meeting; and no tax shall be voted at such township meeting unless notice thereof shall have been given in the said warrant; and the constable who shall receive such warrant, shall warn the electors of such township by setting up copies of said warrant in three of the most public places in each township, at least fifteen days before the meeting of such electors.

SEC. 14. That any person chosen to any office under this act, and not exempted by law, who shall neglect or refuse to serve in such office, shall forfeit and pay, to and for the use of the township, the sum of three dollars, to be recovered before any justice of the peace; and it is hereby made the duty of the township treasurer to sue for the same, and for all fines and forfeitures accruing under this act, for neglect or misconduct in office of any township officer: *Provided*, That

no person chosen to any office by this law created shall be obliged to serve in such office two years successively.

SEC. 15. That all forfeitures under this law, shall be expended and laid out on the highways within the township, and it shall be the duty of the trustees to apportion the same among the supervisors of the highways of the said townships, and the township treasurer may retain three per cent. of all moneys paid into the township treasury for collecting or receiving and paying over the same to the order of the trustees.

SEC. 16. That when by reason of non-acceptance, death or removal of any person chosen to an office in any township at the annual meeting as aforesaid, or in any case where there is a vacancy, the trustees shall fill such vacancy; and the person thus chosen shall take the same oaths, and be liable to the same penalties as though he had been chosen at the annual meetings; and in case there should not, at any annual meeting under this act, be a sufficient number of electors assembled for the choice of a chairman as is hereinbefore provided, between the hours of ten o'clock in the morning and four in the afternoon, so that no township officers can be chosen by the electors, it shall then be the duty of the trustees to appoint all township officers in this law enumerated; and the township officers thus appointed shall take the same oaths and be liable to the same penalties as though they had been elected at the annual meeting.

SEC. 17. That it shall be the duty of all township officers to deliver over to their successors in office under this act, all books and papers relating to their respective offices.

SEC. 18. That whenever and so often as the board of commissioners of any county, may deem it conducive to the public convenience to divide or alter the boundary lines of any township, they shall be and they are hereby authorized to alter the boundaries or to divide the township in the most convenient manner: *Provided*, That nothing herein shall be construed to empower the boards of commissioners to divide any township

in such a manner as to reduce the same below the size hereinafter prescribed, and that the trustees of each and every township in this territory, shall have power to determine on the place of holding elections within this township, and shall give public notice thereof, as is provided in case of township meetings.

SEC. 19. That no township in this territory shall be less than six miles square, unless it includes an incorporated town.

SEC. 20. That any township desirous of being set off as aforesaid, shall, for that purpose, apply to the board of commissioners of the proper county, and on satisfying the board that they are entitled by law to be set off, it shall be the duty of the board to direct their clerk to record the boundaries of said township in a book to be provided for that purpose, and give said township such name as the board of commissioners shall think proper: *Provided*, That no two townships in any one county in this territory, shall be set off and incorporated by the same name.

SEC. 21. That all applications for laying out any cart way or township road shall be by petition to the board of trustees, signed by at least six freeholders of the township residing in the vicinity where said road is to be laid out; and the said petition shall specify the place of beginning, the intermediate points, if any, and the place of termination of said road; and one or more of the signers to said petition shall enter into bonds with sufficient security payable to the treasurer of said township, for the use of said township, conditioned for the payment of all costs and expenses arising from the view and survey of said road, unless the same shall be established a cart way or township road.

SEC. 22. That previous to any petition being presented for such cart way or road, notice thereof shall be given by posting up three written notices at three public places in the township, one of which shall be at the place of holding the elections, at least fifteen days before the sitting of the board at which said petition shall be presented, and the petition being

presented, and the board being satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of the township as viewers of said road, and a surveyor, if necessary, to survey the same, and shall issue an order directing said viewers, after they have been duly sworn, to proceed on a day to be named in said order, or on their failing to meet on said day, within five days thereafter, to view and lay out said road, or if a surveyor be appointed, then to lay out and survey said road, and to make report to the board aforesaid, at their next meeting, and if no remonstrance, which remonstrance shall have at least seven signers, shall be filed with said board or presented on the day at which said viewers make their report, and the said viewers shall report in favor of establishing said road, then and in that case the same shall be recorded in the records of said township as a cart way or township road, and the said trustees shall issue their order to the supervisors of the proper districts to open the same.

SEC. 23. That if any person or persons through whose land any such cart way or township road may be laid out shall feel injured thereby, and make application to the said trustees at their first session after the view of said cart way or road, it shall be the duty of said trustees to appoint three disinterested freeholders of said township, whose duty it shall be to proceed, after being first duly sworn or affirmed to view that part of said cart way or road through the premises of the said complainant and assess the damages of the said complainant, if any, and make report in writing, to said board; and if said viewers shall report that the advantage of said road or cart way are not equivalent to the damage occasioned thereby to the premises of the complainant, and shall therein report the amount of damage, the petitioner shall be required to pay the damages so assessed, and until he does so, the said trustees shall refuse to establish said road or cart way. And all the expenses of the viewers and surveyors, if any, both of the first and second view, shall be paid by said petitioners, and if

they shall neglect or refuse to do so, it is hereby made the duty of the said treasurer to commence suit on said bond before some proper court, and prosecute the same to final judgment and execution.

SEC. 24. That the trustees may require of the township officers such bonds to the township as they shall think proper: *Provided*, That the constables shall take the oath and file the bond required in the "act for electing constables and defining their duties," approved January twenty-fourth, in the year eighteen hundred and thirty-nine.

SEC. 25. That the trustees, by virtue of their office, shall be the judges of the general election for their township, and shall conform to the requirements in that respect, of the "act regulating general elections."

SEC. 26. That the clerks appointed by them to serve at the general election, shall receive from them a certificate of their services, which shall be evidence that they are hereby exempted from one day's labor on the roads, which shall be a full compensation for their services.

SEC. 27. That any person holding a township office, except the office of constable or justice of the peace, shall, in full remuneration for his services in such office, be exempt from all road tax or labor upon roads during his continuance in such office: *Provided*, that any township officer may receive such further compensation as the majority of all the electors of such township may allow.

Approved January 10, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 47.

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AN ACT FOR THE BENEFIT OF THE SHERIFF OF DES MOINES COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the sheriff of Des Moines county be and he is hereby allowed until the first

Monday in April, eighteen hundred and forty, to make a full and final settlement with the board of county commissioners of the said county of Des Moines, as collector of the county revenue for the year eighteen hundred and thirty-nine: *Provided, however,* That said sheriff shall be required, on the first Monday in January next, to make a full exhibition of all his doings as such collector.

SEC. 2. *And be it further enacted,* That the said sheriff shall pay over all the moneys collected by him on or before the second Saturday of January, eighteen hundred and forty, and from and after that time, the sheriff shall settle with the county commissioners every year hereafter on the first Monday in April, in Des Moines county.

SEC. 3. This act to take effect from and after its passage.

Approved January 11, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*,  
p. 52.

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AN ACT TO ORGANIZE THE COUNTY OF CLINTON AND ESTABLISH THE SEAT OF JUSTICE THEREOF.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county of Clinton be and the same is hereby organized from and after the first day of March next, and the inhabitants of said county be entitled to all the rights and privileges to which by law the inhabitants of other organized counties of this territory are entitled, and the said county shall be a part of the third judicial district, and the district courts shall be held at the seat of justice of said county, on the first Mondays of May and October of each year.

SEC. 2. That there shall be an election held on the first Monday in April next, for the purpose of electing three county commissioners and all other county officers that are elective in other organized counties of this territory.

SEC. 3. That it shall be the duty of the sheriff of said county to cause written notices to be put up at three of the most public places in each of the precincts in said county of Clinton, at least ten days previous to said election, stating the time, place and officers to be elected. The house of Lyman Evans shall be the place of voting for a new election precinct in said county.

SEC. 4. That the officers elected as aforesaid, shall hold their offices until the next general election in this territory, and until their successors are duly elected and qualified.

SEC. 5. That the county seat of said county is hereby established at the town of Camanche.

SEC. 6. That it shall be the duty of the county commissioners of Scott county, at the next April term, to select twenty-three persons in said Clinton county for grand jurors, and twenty-four persons in said county as petit jurors. An attested copy of the names so selected shall be delivered by the clerk of said commissioners within three days after the selection, to the clerk of the district court of Scott county, who shall thereupon issue and deliver to the sheriff of Clinton county proper venires, commanding him to summon the persons so selected to appear before the district court of Clinton county, at or before the hour of eleven A. M. of the first day of the term thereof, to serve as grand jurors, or petit jurors (as the case may be.) Said venires shall be served as in other cases.

SEC. 7. That the election authorized by this act, shall be conducted as provided by law in other cases of county elections; and the returns of said election shall be made within six days after the election, to the sheriff of said county. And said sheriff, after receiving the returns, shall, in presence of two justices of the peace, canvass the returns, and issue certificates to the persons elected.

Approved January 11, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*,  
p. 53.

## AN ACT FOR THE RELIEF OF VAN BUREN COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county commissioners of Van Buren county shall have the power to draw from the territorial treasury any sum of money sufficient to defray all lawful expense that has accrued in taking the sheriff of Clark county, Missouri, and conveying him to the town of Bloomington, Muscatine County, in this territory, and said sum shall be paid by the treasurer of this territory, out of any money in the territorial treasury not otherwise appropriated, as soon as the account of such expenses shall be audited by the auditor of public accounts: *Provided, however,* That such sum of money shall not exceed an amount that is usual for services of like character.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 13, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*, p. 58.

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## AN ACT TO AMEND THE "ACT PROVIDING FOR THE APPOINTMENT OF JUSTICES OF THE PEACE, &amp;c., APPROVED JANUARY 21, 1839.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That hereafter in every township organized by law in any county in this territory, there shall be elected two justices of the peace at the first township election in like manner as township officers.

SEC. 2. The one having the highest number of votes shall hold his office two years, and the one having the next highest number shall hold his office one year. If the two highest have an equal number of votes the elder shall have the priority.

SEC. 3. At every annual township election after said first election, there shall be elected in each of said townships one

justice of the peace, who shall hold his office two years, and until his successor is elected and qualified.

SEC. 4. That hereafter in every county which is not divided into organized townships, there shall be elected in each election precinct at the next general election, two justices of the peace, to be voted for only by the qualified voters residing in the precinct, one to hold his office two years, the other one year, the priority to be determined as in section second: *Provided*, That four may be elected in the Burlington precinct, and in Du Buque precinct, and three in the Farmington precinct, and four in the Fort Madison precinct, and three in the West Point precinct, and three in the Keosauqua precinct, and three in the Bloomington precinct, and three in the Iowa City precinct.

SEC. 5. At every annual general election after the election mentioned in section four, one justice of the peace shall be elected in each election precinct, who shall hold his office two years, and until his successor is elected and qualified.

SEC. 6. That returns of election of such justices in such election precincts, shall be made to the clerk of the board of county commissioners, and certificates of election issued, as in other cases.

SEC. 7. That in such counties as are mentioned in section four, where the boundaries of the election precincts are not already established or known, the board of county commissioners are hereby required (in order to carry out the purposes of this act) to establish and make known such boundaries in such manner as they shall deem proper, at a regular or special session of their board prior to the next general election.

SEC. 8. That when any one of the last mentioned counties is divided into organized townships and justices elected as provided in section first, the justices therein who may have been previously elected under section four, shall hold their offices only till the expiration of the two years for which they were elected.

SEC. 9. That at the end of thirty days next succeeding

the day of election of justices of the peace in any township or precinct in any county under the provisions of this act, the offices of justices of the peace in such township or precinct held by virtue of a commission from the governor, shall be deemed expired and at an end.

SEC. 10. That every justice of the peace who shall lawfully receive the record and documents of a neighboring justice by reason of the death, resignation or removal of such justice, shall proceed to close up any unfinished business so placed in his hands in like manner as the person from whom such papers and records were received, was required by law to do.

SEC. 11. In case of the death of any justice of the peace, his legal representatives within twenty days after the issuing of letters testamentary or of administration, shall hand over the records and all papers relating thereto of his testator or intestate to some neighboring justice of the peace of the township or precinct where the deceased lived and executed his office.

SEC. 12. Every person whose duty it is to comply with the requisition of the next preceding section or the twelfth section of the first article of the act to which this act is amendatory, shall forfeit and pay to the county treasurer, for every three months' neglect to comply, fifteen dollars to be recovered with costs of suit.

SEC. 13. That the party, or anyone of the party, aggrieved in any case of trial or judgment before a justice of the peace either by jury or otherwise, may take the same to the district court of the proper county by writ of certiorari, to be issued from said county by the clerk thereof upon the applicant giving bond with sureties approved by said clerk, within thirty days after such trial or judgment, conditioned to prosecute the same to judgment without delay, and that the party obtaining said writ will pay the debt and costs of both courts, if the judgment of the justice be affirmed or judgment be against him on trial de novo, and in all such cases the court shall

examine, hear, try, and determine the same anew without regarding any error, defect or other imperfection in the proceedings of the justice. And whenever the judgment shall be affirmed or shall be rendered on trial de novo against the plaintiff in error the judgment shall be rendered as well against the sureties as principal plaintiffs in error.

SEC. 14. That jurors in trials before justices of the peace, shall each receive fifty cents per day, or twenty-five cents for half a day, to be charged in the bill of costs.

SEC. 15. That a stay of execution of two months, may be had on all judgments before justices of twenty-five dollars, as in other cases.

SEC. 16. That the twenty-fourth section of the eleventh article of the act to which this is amendatory, is hereby repealed, and the following enacted as a substitute, to wit: "In default of such bond, the same proceedings shall be had thereon as in cases of debt where bonds have been given to stay executions according to law, in such cases made and provided."

SEC. 17. That any person having obtained a judgment, before any court of record or justice of the peace within this territory, against any defendant, the plaintiff, upon filing an affidavit setting forth that the deponent verily believes that the defendant has not in his possession, within the knowledge of such affiant, any visible property or effects sufficient to satisfy said judgment and costs, and that the said affiant believes that the defendant in the judgment has property debts, rights or credits, (as the case may be stating the particulars of the case) in the hands of A. B. (naming him,) an execution upon any such judgment may issue, containing an attachment clause, which shall be served upon any such garnishee, requiring him to appear at the return of such execution and answer to interrogatories, touching his indebtedness to the said defendant in execution at or subsequent to the time of the service of such attachment.

SEC. 18. That if any such garnishee shall be found to be

indebted to the defendant in any such execution, a judgment shall be rendered against any such garnishee for the amount for which he admits himself to be indebted in his said answers, or so much thereof as will satisfy any such execution, with costs of suit and of the attachment, and such judgment against the garnishee shall bind all such property, effects, rights and credits in the hands of such garnishee and the payment of the amount of the judgment by such garnishee, shall operate as a conclusive bar to the right of any such defendant in execution to recover the amount paid under this process against any such garnishee.

Approved January 14, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40.*  
p. 59.

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AN ACT FOR THE RELIEF OF CERTAIN TERRITORIAL OFFICERS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the acts of any county officer of any county within this territory, except the counties of Du Buque and Henry, who shall not have taken the oath of office according to the letter of the law as prescribed by the statute of this territory, to be taken by such officer previous to entering upon the duties of his office; but who, after his election or appointment, as the case may be, shall, (acting in the good faith) have taken an oath before the proper officer, and in all other respects complied with the requisitions of the law in such cases provided, shall be considered valid in any court of law or equity within this territory, in the same manner as if such officer had taken the oath according to the strict letter of the law in such case made and provided, and any such officer is hereby declared a legal officer, entitled and required to fulfil and perform all the duties of his office.

SEC. 2. That any county officer who shall, acting in good faith and owing to the absence of necessary information on

the subject have filed his bond or affidavit with an officer not authorized by law to receive the same, shall be considered and he is hereby declared a legal officer so soon as he shall have filed his bond or affidavit with the officer authorized by law to receive the same, and his past acts in such office are hereby declared as valid and legal as if such bond or affidavit had been filed before the officer authorized by law to receive the same.

Approved January 14, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 61.

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AN ACT TO RE-LOCATE THE COUNTY SEAT OF CLAYTON COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That D. F. Blythe, of Du Buque county, J. L. Kirkpatrick, of Jackson county, and Franklin Moffit, of Delaware county, be and they are hereby appointed commissioners to re-locate the county seat of Clayton county, whose duty it shall be to meet (or a majority of them) at the town of Prairie Laporte, in said county, on the first Monday of May next, and proceed forthwith to locate a suitable place for the seat of justice of said county, having reference to the geographical center, convenience, and welfare of said county.

SEC. 2. The commissioners aforesaid shall, before they enter upon their duties as commissioners, take and subscribe, before some district judge or justice of the peace, the following oath, to wit: “We, the commissioners to re-locate the seat of justice in and for the county of Clayton, do hereby solemnly swear (or affirm as the case may be) that we will perform the duties imposed on us by said appointment, honestly and faithfully, and according to the best of our abilities, and according to the law relative to the locating said county seat; and we do further swear (or affirm) that we are not, directly

or indirectly, interested in said location, but that in locating said county seat we will be actuated only by a desire for the best interest of said county, without the slightest partiality towards any person or persons, and without bias from fear, favor, or recompense, or the hope of any gain or advantage to ourselves in any respect whatever."

SEC. 3. So soon as said commissioners shall have determined upon the place where said seat of justice shall be located, it shall be the duty of said commissioners to name said seat of justice by such name as they may think proper, and shall forthwith commit their proceedings to writing, and sign the same, and file them with the clerk of the district court of said county, whose duty it shall be to record the same in the record book.

SEC. 4. Said commissioners shall receive three dollars per diem for the time they shall be actually engaged in the location of said seat of justice, not exceeding ten days, and three dollars for every twenty-five miles going to and returning from said county seat, to be paid out of the treasury of Clayton county.

SEC. 5. *Be it further enacted,* That in case of vacancy by death or otherwise in said board of commissioners, it shall be the duty of the county commissioners in the county where such vacancy shall occur to appoint some suitable person to fill the vacancy.

SEC. 6. The site selected as aforesaid, shall be the seat of justice for Clayton county, from and after the first day of September next, *Provided*, That a majority of the qualified voters of said county shall decide in favor of the same, as is hereinafter provided.

SEC. 7. That at the next August election the lawful voters of said county may vote for county seat, as follows: Those who are in favor of Prairie Laporte shall insert at the foot of their tickets for members of the Council, &c., "Prairie Laporte," and those who are in favor of the location made by the commissioners aforesaid, shall insert as aforesaid, the

name given to said location by said commissioners; and the place having a majority of the legal votes of said county shall be the county seat of Clayton county.

SEC. 8. That in case the county seat is removed from Prairie Laporte, the district court for the county of Clayton shall be held at that place until a court house is provided at the new county seat.

Approved January 14, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
p. 63.

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AN ACT AMENDATORY TO "AN ACT FOR ASSESSING AND COLLECTING COUNTY REVENUE," APPROVED JANUARY 24, 1839.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That so much of the act to which this is amendatory as renders improvements upon real estate subject to taxation, be and the same is hereby repealed, and it shall be the duty of the county assessor to assess any real estate by him assessed at the actual value, which such real estate would bear without the improvements thereupon.

SEC. 2. That no tax on real estate for the year eighteen hundred and thirty-nine, omitted in the assessment for that year, shall be levied in the year eighteen hundred forty, on any land purchased from the United States previous to that period.

SEC. 3. That the county commissioners, should they deem it necessary, may annually, at their regular session in July, or so soon thereafter as the assessment roll is filed, levy a poll tax not exceeding one dollar nor less than fifty cents on every qualified voter in the county under fifty years of age. That part of the second section of the act to which this is amendatory which relates to this subject, is hereby repealed.

SEC. 4. That so much of the same act as prohibits merchants and store keepers having a license to sell goods, from

selling clocks upon their own premises without a special license for that purpose, be and the same is hereby repealed.

SEC. 5. That the following property is hereby declared exempt from taxation, viz: the stock in trade of any merchant or store keeper trading under a license from the county commissioners of the proper county, school lands, or property of any kind belonging or appertaining to schools, sheep, the property of all literary or scientific institutions, together with public buildings and other property belonging to the territory.

SEC. 6. That the county commissioners of any county are hereby empowered to extend the time of the county collector of such county for making his returns, (as prescribed in the fourteenth section of the act aforesaid,) to such period as they may deem requisite, and the said collector is hereby authorized to proceed to collect taxes and make sales during the time of such extension, in the same manner as is prescribed in the act aforesaid, the day of such sales to be appointed by the board of county commissioners, at such times as they may think proper, conforming in all other respects with the provisions of the act aforesaid.

SEC. 7. That that part of the same act which makes it the duty of the sheriff or collector to make his returns to the board of county commissioners, on the first Monday in January annually, is hereby repealed: *Provided*, That it shall be the duty of said sheriff or collector to pay over to the county treasurer the sums collected for taxes as fast as he shall receive the same.

SEC. 8. That when any assessor in any county in this territory now elected or appointed, or who may be hereafter elected or appointed under the provisions of the act to which this act is amendatory, has good reason to believe that any person is disposed to equivocate or unwilling to render a true account of his or her property subject to taxation, such assessor is hereby empowered, at his discretion, to swear such person to give a true account of the quality and quantity of such prop-

erty, according the best of his or her knowledge and belief. And should any person, when so required, refuse to testify as aforesaid, such assessor shall ascertain the taxable property of such person from the best information to be derived from other sources; and the person so refusing to testify shall pay such assessor the sum of five dollars, for his extra trouble, which may be recovered as other debts.

SEC. 9. That whenever any assessor elected or appointed as aforesaid, shall deem it necessary, he may appoint a deputy assessor to be approved of by the board of county commissioners, who shall take an oath before the clerk of such board for the faithful discharge of his duties, and for whose acts the assessor shall be personally responsible.

SEC. 10. That all parts of the act to which this is amendatory, contradictory to this act are hereby repealed.

Approved January 14, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*, p. 64.

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**AN ACT TO PROVIDE FOR THE ELECTION OF DELEGATE TO CONGRESS, JUDGES OF PROBATE, SHERIFFS, COUNTY RECORDERS, COUNTY SURVEYORS, AND TO AMEND "AN ACT REGULATING GENERAL ELECTIONS IN THIS TERRITORY."**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the delegate to congress from this territory, shall be elected at the general election, in the year eighteen hundred and forty, whose term of service shall commence from the twenty-seventh day of October, in the same year; and a delegate to congress shall be elected at the general election in the year eighteen hundred and forty-one, and every two years thereafter.

SEC. 2. That one judge of probate shall be elected at the general election in the year eighteen hundred and forty, in each organized county, who shall hold his office three years, and until his successor is elected and qualified.

SEC. 3. That the fifth section of an "Act for establishing courts of probate," approved January seventeen, eighteen hundred and thirty-nine, and so much of said act as requires the appointment by the governor of judges of probate, is hereby repealed.

SEC. 4. That in each organized county there shall be elected one sheriff at the general election in the year eighteen hundred and forty, who shall hold his office two years, and until his successor is elected and qualified.

SEC. 5. That a certificate of election shall be issued to the person elected sheriff, in like manner as to other county officers, and the oaths required to be taken by him shall be endorsed on the back of said certificate.

SEC. 6. That so much of the first section of "An act for the appointment and duties of sheriffs," approved January twenty-one, eighteen hundred and thirty-nine, as requires them to be appointed and commissioned by the governor, is hereby repealed, and every sheriff shall, within thirty days after receiving his certificate of election, enter into bonds, &c., as required in section second of said act; and in section fourteen of said act, the words "appointed and commissioned," shall read "elected and qualified," after the next general election; and in section fifteen of said act, the words "commissioned" and "appointed," shall read "elected."

SEC. 7. That one county recorder shall be elected at the general election, in the year eighteen hundred and forty, in each organized county, who shall hold his office two years. The bonds of such recorders shall be approved by the boards of county commissioners, if in session, if not, by any two of the board.

SEC. 8. That so much of "An act defining the duties of county surveyors," approved December twenty-fifth, eighteen hundred and thirty eight, as requires the governor to commission county surveyors, is hereby repealed.

SEC. 9. That every two years one county surveyor shall be elected in each organized county, at the general election,

in like manner as other county officers, and their oaths of office shall be endorsed on the back of their certificates of election by the person administering the same.

SEC. 10. That all county surveyors elected at the last general election and qualified by taking the oath of office required by the act mentioned in section eight of this act, shall hold their offices until the general election in the year eighteen hundred and forty-one, and until their successors are elected and qualified: *Provided*, Those who have not received or shall not receive a commission as required in said act, shall nevertheless be deemed as holding their office by a lawful tenure.

SEC. 11. That the third section of "An act regulating general elections," approved January twenty-five, eighteen hundred and thirty-nine, be so amended as to require the clerks of the several boards of county commissioners at least fifty days previous to any general election, and twenty days previous to any special election to make out and deliver to the sheriff three written notices thereof for each election precinct.

SEC. 12. That when any vacancy occurs in any county office by death, resignation, removal or other disqualification, the county commissioners shall order their clerk to issue the written notices for a special election to fill such vacancy required by the next preceding section; and the person elected to fill such vacancy shall hold his office until the end of the term which his predecessor would have held had he continued in office: *Provided*, That no order need be made for such election, if no inconvenience to the people will arise by waiting till the next succeeding general election.

Approved January 16, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*,  
p. 78.

**AN ACT FOR THE RELIEF OF THE POOR.**

**SECTION 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of county commissioners of the several counties of this territory, shall be and they are hereby vested with entire and exclusive superintendence of the poor in their respective counties.

**SEC. 2.** Every poor person who shall be unable to earn a livelihood, in consequence of bodily infirmity, idiocy, lunacy or other unavoidable cause, shall be supported by the father, mother, or children of such poor person, if they, or either of them, be of sufficient ability, and every person who shall fail or refuse to support his or her father, mother or child, when directed by the board of commissioners of the county where such poor person shall be found, whether such relative reside in the county or not, shall forfeit and pay to the county commissioners, for the use of the poor of their county, the sum of fifteen dollars per month, to be recovered in the name of the county commissioners, for the use of the poor as aforesaid, before any justice of the peace or any court having jurisdiction.

**SEC. 3.** When any such poor person shall not have any such relative in any county in this territory, as are named in the preceding sections, or such relative shall not be of sufficient ability, or shall fail or refuse to maintain such pauper, then the said pauper shall receive such relief as the case may require out of the county treasury; and the county commissioners may either make contracts for the necessary maintainance of the poor, or appoint such agents as they may deem necessary, to oversee and provide for the same.

**SEC. 4.** When any minor shall become, or be likely to become chargeable to the county, either because of being an orphan, or because the relations aforesaid are unable or refuse to support such minor, it shall be the duty of the county commissioners to bind such minor as an apprentice by written indenture, which shall bind such minor to serve as an appren-

tice, and shall in all respects be to the tenor and effect as required in the act concerning apprentices.

SEC. 5. When non-resident, or any other person not coming within the definition of a pauper, shall fall sick, in any county of this territory, not having money or property to pay for his board, nursing and medical aid, it shall be the duty of the county commissioners, on complaint being made, to give or order to be given such assistance to such poor person as they may deem just and necessary; and if said sick person shall die, then the said commissioners shall give or order to be given to such person, a decent burial; and the said commissioners shall make such allowance for board, nursing, medical aid or burial expenses, as they shall deem just and equitable, and order the same to be paid out of the county treasury.

SEC. 6. When application is made by any pauper to the board of commissioners of any county in this territory for relief, it shall be necessary for said commissioners to require of said pauper satisfactory evidence that he has been a resident of said county for twelve months immediately preceding the day upon which such application is made.

SEC. 7. When, on application made by any pauper to the board of commissioners as aforesaid, it shall appear to the satisfaction of said board, that the person so applying for relief has resided in said county agreeably to the provisions of the foregoing section of this act, he shall be entitled to all the relief provided by this act; but if on the contrary it shall appear to the satisfaction of said board that said pauper has not been a resident of said county agreeably to the provisions of the sixth section of this act, they shall proceed to remove from their county, at the expense of said county, such pauper, to the county where said pauper may have had his residence, or may, if they think best, issue a notice directed to some constable of the county, which notice the said constable shall serve forthwith on said pauper requiring him to depart said county forthwith; and after so serving said notice by read-

ing the same to said pauper, said constable shall, within five days thereafter, return the same to the clerk of the board of commissioners issuing the same, noting the time and manner of serving the same thereon.

SEC. 8. After service of such notice as aforesaid, no pauper shall be entitled to relief from such county, any law or custom to the contrary notwithstanding.

SEC. 9. The board of county commissioners of any county in this territory, may, if they think proper, cause to be built or provided in their respective counties, work-houses for the accommodation and employment of such paupers, as may from time to time become a county charge; and said work-house and paupers shall be under such rules and regulations as said boards of commissioners may deem proper and just.

SEC. 10. If any person shall bring and leave any pauper in any county in this territory, wherein such pauper is not lawfully settled, knowing him to be a pauper, he shall forfeit and pay the sum of one hundred dollars, for every such offence, to be sued for and recovered by and for the use of such county by action of debt, before any court having jurisdiction of the same.

Approved January 16, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,  
p. 83.*

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AN ACT TO REMOVE AND RELOCATE THE COUNTY SEAT OF  
LEE COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That George Gallaher, of Des Moines county, and James L. Scott, of Jefferson county, and Samuel C. Reed, of Van Buren county, are hereby appointed commissioners to relocate the county seat of the county of Lee, whose duty it shall be to meet at Fort Madison, in said county, on the first Monday of March next, and they

or a majority of them shall proceed forthwith to select a suitable place for said county seat, as near the geographical centre as a suitable site can be obtained.

SEC. 2. Said commissioners, or a majority of them, immediately after they have selected a suitable place for the same, shall commit their proceedings to writing, describing the place they have selected, together with the quarter section, township and range, together with any deed or deeds for any lands, and also any bond or bonds for the payment of money or for the building of any public buildings, and shall send them all to the clerk of the district court of said county.

SEC. 3. Said commissioners shall each of them take and subscribe the following oath, before some person authorized to administer the same, viz: I, A. B. do solemnly swear (or affirm) that I am not either directly or indirectly interested in the relocation or removal of the county seat of Lee county, and that I have no property, either in claims or lands, in said county, and that I will proceed to select a suitable place for the same according to my abilities and the law for relocating the same, so help me God.

SEC. 4. If it shall be shown at any time within two years that either of said commissioners were interested, or received any gratuity or reward, or any promise of any thing, such commissioner or commissioners shall be liable to indictment for perjury, and be liable to the penalty for said crime.

SEC. 5. It shall be the duty of said commissioners to receive any deed or deeds of land or bond for the payment of money which may be made to the county commissioners of said county, and deposite the same with any bond for building any public buildings for said county with the clerk of the district court.

SEC. 6. Said commissioners shall each receive three dollars per day for every day they are necessarily employed in locating said county seat, and three dollars each for every twenty miles travel to and from said county seat. The district court for said county, at its first term after the passage

of this act, and until the public buildings are erected at the county seat, shall be held at the town of Fort Madison, and thereafter at the place selected by them for said county seat. And the treasurer of said county is hereby authorized and required to pay said commissioners the respective sums allowed by this act, out of any moneys in the treasury of said county not otherwise appropriated.

Approved January 16, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*,  
p. 91.

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#### AN ACT TO ESTABLISH A SYSTEM OF COMMON SCHOOLS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* [That] Whenever any school district shall be formed in any township by the board of school inspectors, it shall be the duty of said board to deliver a notice in writing describing the boundaries of said district, and the time and place of the first meeting, to a taxable inhabitant of such district.

SEC. 2. It shall be the duty of such inhabitant to notify every qualified voter of such district, either personally or by leaving a written notice at his place of residence, of the time and place of said meeting, at least six days before said meeting.

SEC. 3. Whenever such inhabitant shall neglect or refuse to serve notice as required, he shall forfeit to the district, for the use of its library, the sum of ten dollars, to be recovered in an action of debt by the assessor, when said district shall be organized, before any court of competent jurisdiction.

SEC. 4. The qualified voters, when assembled, pursuant to such previous notice, and also at each annual meeting, shall choose a moderator, director and assessor.

SEC. 5. Every white male inhabitant of the age of twenty-one years, residing in such district, liable to pay a school district tax, shall be entitled to vote at any district meeting.

SEC. 6. In case the inhabitants of a district fail to organize the same, or if any district, after formation, shall be dissolved, such notice shall be renewed in the manner prescribed in the first two sections of this act.

SEC. 7. Whenever from whatever cause any district shall become destitute of the three officers provided for in this act for the period of six months, or whenever any district shall neglect or refuse to hold two successive annual meetings, it shall be taken and held to be dissolved.

SEC. 8. Special meetings may be called by the district board, or by any one of them, on the written request of three legal voters of the district, by giving the required previous notice; but in all such cases the object of meeting shall be clearly stated in said notice.

SEC. 9. All notices for district meetings, except such as are provided for in the first two sections of this act, whether annual or special, shall set forth the day and hour and place of meeting, and be given at least six days previous to such meeting, by being posted up in the most public place in the district.

SEC. 10. The annual meeting of each school district shall be on the first Monday of October.

SEC. 11. Each school district organized under this act, shall be a body corporate by the name and style of "school district number , of the township of , in the county of , and territory of Iowa," and in that name of suing and being sued, and of holding such real and personal estate as is authorized to be purchased by the provisions of this act, and of selling the same.

SEC. 12. Whenever any suit shall be brought against any school district, the process shall be by summons, a copy of which shall be left with the assessor of said district at least ten days previous to the return day thereof.

SEC. 13. Whenever lawfully assembled, the qualified voters in each district shall have power,

*First.* To adjourn from time to time as may be necessary.

*Second.* To designate a site for a school-house, and to change the same by a vote of two-thirds, at any regular meeting: *Provided,* That when no site can be established by said inhabitants, the inspectors of the township or townships shall determine where the site shall be, and said determination shall be final.

*Third.* To purchase or lease an appropriate site, and to build, hire or purchase a school-house, and to impose such tax as shall be sufficient for the payment thereof: *Provided,* That the amount of such tax shall not exceed in any one year the sum of five hundred dollars.

*Fourth.* To impose from time to time such tax as may be required to keep the school-house in repair, and provide for the necessary appendages: *Provided,* That all expenses for fuel shall be a tax upon the inhabitants sending pupils to school in proportion to the number of pupils, and the time they shall attend school: *And provided also,* That when any district in which a school-house shall have been built, shall, within two years thereafter, be divided, and there shall be a tax for a school-house raised in the districts to which any portion of such aforesaid district shall have been attached, the remaining portion of such district in which the school-house shall have been built, shall refund to the newly formed district that portion of the tax contributed by such portion of the district so set off.

*Fifth.* To impose a tax sufficient for the purchase of a suitable library case, also a sum not exceeding ten dollars annually, for the purchase of books to be selected by a vote of the district by the district board, when so directed.

*Sixth.* To designate the place where the library shall be kept, and the person by whom it shall be kept; and the superintendent of public instruction shall establish the necessary rules for the regulation of the library.

*Seventh.* To determine at each annual meeting, the length of time, which shall not be less than three months, the school shall be kept, and to fix the amount of money, in addition to

its apportionment, which may be raised for the support of its school teachers the ensuing year, the sum so voted not to exceed in any one year ninety dollars: *Provided*, That in case no sum for the support of schools shall be voted at the annual meeting of any district, the director may call a special meeting for the purpose of voting such tax; at which meeting the district may, by a vote of two-thirds, vote any sum not exceeding that authorized to be raised at the annual meeting.

*Eighth.* To order and direct the sale of any site that may belong to the district, whenever the school-house shall have been removed, or the sale of such other property and buildings as may belong to the district.

SEC. 14. The moderator, director and assessor shall hold their respective offices until the annual meeting next following their appointment and until others are chosen: *Provided* They shall not hold their offices beyond the time of a second annual meeting without re-election.

SEC. 15. Every person elected to any one of the above offices who, without sufficient cause, shall neglect or refuse to serve shall forfeit to the district for the use of the library the sum of ten dollars, to be recovered in an action of debt by the assessor before any court of competent jurisdiction.

SEC. 16. The moderator shall have power and it shall be his duty to preside at all meetings of the district, to sign all warrants for the collection of taxes and all orders for payment of moneys to be disbursed, by the district, and countersign all warrants of the director upon the township board of inspectors for the moneys apportioned to the district by said board of school inspectors.

SEC. 17. The assessor shall have power and it shall be his duty,

*First.* To obtain within thirty days of his election, a transcript of so much of the last assessment roll of the township or townships as relates to his district, and shall add to such transcript all the property of persons who may have become residents since the last assessment roll was made, and all the

property purchased by non-residents since the making of said roll; said property to be rated according to the rule of valuation adopted in making out the township assessment roll: *Provided*, That no property shall be twice assessed, and the said transcript, together with such additions as shall be made as aforesaid, shall be the assessment roll of said district; and all taxes to be raised in such district shall be levied upon the taxable property thereof in proportion to such valuation.

*Second.* To post up whenever any tax shall have been assessed upon the property of his district, in the most frequented and central place, a list of persons taxed, with the amount set opposite their respective names, so far as their names shall be known, and also a description of the property of persons whose names shall be known, and also a description of property of persons whose names are not known at least thirty days previous to the same being offered for collection.

*Third.* To call a meeting of the district board in case any person shall complain to him, during the above named period, of being taxed beyond his due proportion, who shall examine into the ground of said complaint, and reverse, alter, or confirm said assessment as, in their judgment, justice shall require, and at the end of the time specified, he shall certify the same upon the tax list, and present it to the moderator for his warrant.

*Fourth.* It shall be the duty of the assessor to collect all taxes assessed upon the taxable property of his district, and pay them over on the warrant of the moderator, and in case any person shall neglect or refuse to pay such tax when called upon, it shall be the duty of the assessor to collect the same by distress and sale of the goods and chattels of such person whenever found in said district, having first published such sale for at least ten days by posting up notice thereof in the most public place in the district; and in the collection of taxes upon lands and tenements said assessor shall make returns to the county collector; and it shall be the duty of the county collector to sell the lands and tenements for the collection of

said school tax, in the same manner as is required for the collection of township and county taxes.

*Fifth.* It shall also be the duty of the assessor to appear for and in behalf of his district in all suits brought by or against said district, except the case provided for in the nineteenth section of this act.

SEC. 18. The director shall have power and it shall be his duty,

*First.* To record all the proceedings of the district in a book to be kept for that purpose, and preserve copies of all reports made to the board of school inspectors.

*Second.* To employ by and with the advice and consent of the moderator and assessor, or either of them, qualified teachers, and pay them by a draft upon the township board of inspectors, said draft not to exceed the amount due said district on account of the apportionment of the board of school inspectors.

*Third.* Whenever the apportionment shall not be sufficient to pay for the services of any such teachers, it shall be the duty of the director to call a meeting of the district board for the purpose of levying the balance upon the taxable property of the district, the amount so levied not to exceed the sum voted by the district at its annual meeting; and in case said sum so voted, together with the apportionment, shall be found insufficient the deficit shall be assessed upon the parents or guardians of the children in proportion to the length of time they shall severally have attended school during the term or terms when such deficiency shall have arisen.

*Fourth.* Within ten days of the time of the annual meeting, the director shall take the census of his district by registering the names of all belonging to it between the ages of five and twenty-one years inclusive.

*Fifth.* A copy of this list he shall give to each and every teacher employed within the district, and require every such teacher carefully to note the time of attendance of each and every scholar, and to make a return of the same to the director.

*Sixth.* It shall be the duty of the director to provide the necessary appendages for the school-house, and keep the same in good condition and repair during the time of school, and an accurate account of all expenses incurred.

*Seventh.* He shall present said account to the district board to be assessed and collected in the manner hereinbefore prescribed.

*Eighth.* It shall be his duty to give the prescribed notice of the annual district meeting, and all such special meetings as shall be called for in accordance with the provisions of this act.

*Ninth.* At the end of the year the school director shall report to the township board of inspectors at the office of the township clerk.

*First.* The whole number of persons between the ages of five and twenty-one.

*Second.* The number attending school under five and over twenty-one.

*Third.* Whole number that have attended school during the year.

*Fourth.* Length of time a school has been kept by a qualified teacher.

*Fifth.* Amount of money received from the board of school inspectors.

*Sixth.* Amount received for library.

*Seventh.* Amount of money raised in the district.

*Eighth.* Purposes for which it was raised, and,

*Ninth.* Books used in said school.

SEC. 19. The moderator, director and assessor shall constitute the district board, and they shall have power and it shall be their duty,

*First.* To levy and assess upon the taxable property all moneys voted by the district, and the deficit, if any, agreeably to the third provision of the eighteenth section of this act, and the sums requisite for the necessary appendages and fuel for the school-house during the continuance of any school.

*Second.* To equalize the assessment roll of fractional school districts formed from different counties, whenever, in their judgment, the assessment rolls of the townships out of which said district was formed shall be unequal.

*Third.* To purchase or lease a site as designated by the district for the school-house in the corporate name thereof, to build, hire or purchase such school-house out of the funds collected for that purpose, and to make sale of any site or property of the district as directed by the inhabitants thereof, at an annual or special meeting.

*Fourth.* To divide the public moneys received by the district for the year in not more than two parts, and to assign and apply one of such portions to each term a school may be kept, in payment of the teachers for services for the same: *Provided,* That no money shall be paid to any teacher who has not received a certificate as provided in the twenty-ninth section of this act.

*Fifth.* To require of the assessor a bond to be given to the district in double the amount of taxes to be collected in the district, with two sufficient sureties to be approved by the moderator and director, conditioned for the faithful appropriation of all moneys that come into his hands by virtue of his office: said bond to be lodged in the hands of the moderator; and in case of a non-fulfillment of the condition thereof, the moderator and director, or either of them, may cause a suit for the penalty of said bond to be commenced in the name of the district before any court of competent jurisdiction.

*Sixth.* To present at each annual meeting of the district, a report setting forth an accurate account of all moneys received by them or any of them during the preceding year and of the disbursement of the same, which report shall contain the items of such receipts and disbursements, and such report shall be recorded by the director in a distinct book to be provided and kept for that purpose.

SEC. 20. The district board shall have power to fill by appointment any vacancy that shall occur from whatever cause,

and it shall be the duty of the board to supply such vacancy within ten days after the time of its occurrence.

SEC. 21. Each and every district that shall comply with the fifth provision of the thirteenth section of this act, shall be entitled to its proportion of the clear proceeds of all fines collected within the several counties for any breach of the penal laws, and also its proportion of the equivalent for exemption from military duty, which fines and equivalent shall be paid over by the several officers collecting the same to the treasurers of their respective counties, to be by them apportioned amongst the several townships in the county according to the number of persons between the ages of five and twenty-one years inclusive.

SEC. 22. Each member of the district board shall receive such compensation for his services as shall be voted in district meetings.

SEC. 23. There shall be chosen at each annual township meeting, three school inspectors in the same manner as other township officers are chosen, who shall hold their office until others are chosen.

SEC. 24. Said inspectors shall have power and it shall be their duty,

*First.* To meet within ten days of their election at the office of the township clerk, who shall be ex-officio clerk of the board, and organize by choosing one of their number chairman, who shall preside at their meetings.

*Second.* To divide the township into such a number of districts and to regulate and alter the boundaries of said school districts, as from time to time be necessary.

*Third.* To apply for and receive from the county treasurer all moneys appropriated for the primary schools and district libraries in their townships, and from the collector of the township all moneys raised therein for the same purpose, as soon as the same may be due.

*Fourth.* To describe and number the school districts of their township.

*Fifth.* To apportion the school and library money received by them, on or before the first day of March in each year, among the several school districts in their township, in proportion to the number of persons in each between the ages of five and twenty-one years, as the same shall be shown by the last annual report of the director of each district: *Provided* no school money shall be apportioned to any district from which a report shall not have been received, nor to any district in which a school shall not have been kept at least three months during the year immediately preceding by a qualified teacher, except the first distribution: *And provided*, That no library moneys shall be apportioned to any district that shall not have complied with the fifth provision of the thirteenth section of this act.

SEC. 25. The chairman of the board of inspectors shall be the treasurer of said board, and it shall be the duty of the inspectors to require of said chairman a bond to be given to the township in double the amount to be received by him, in two sufficient sureties to be approved by the township clerk, conditioned for the faithful appropriation of all moneys that may come into his hands by virtue of his office, said bond to be lodged with the township clerk, who is hereby authorized, in case of the non-fulfilment of the condition of said bond, to sue for the penalty thereof before any court of competent jurisdiction.

SEC. 26. On or before the twentieth day of October of each year, they shall make out and transmit to the clerk of the district court a report setting forth the whole number of districts in their township, together with the several particulars set forth in the reports of the school directors.

SEC. 27. If any board of school inspectors shall neglect or refuse to make such report by the time set forth in the preceding section, they shall forfeit to the use of the schools of their township the sum of fifty dollars, and the full amount of the money lost by their failure, with interest on the same, to be recovered in an action of debt by the township collector before any court having competent jurisdiction of the same.

SEC. 28. Whenever it may be necessary or convenient to form a district from two or more adjoining townships, the inspectors, or a majority of them from each of such adjoining townships, may form a district, regulate and alter the same; and the director of such district so formed shall make returns to each township from which said district is formed, specifying in said returns that only which belongs to said township.

SEC. 29. It shall be the duty of the inspectors to examine annually all persons offering themselves as candidates for teaching primary schools in their township, in regard to moral character, learning and ability to teach school, and if satisfied that such candidates possess the requisite qualifications, they shall deliver to the person so examined a certificate signed by them, in such form as shall be prescribed by the superintendent of public instruction, which certificate shall be in force one year from the date thereof.

SEC. 30. Whenever the inspectors shall deem it necessary, they may re-examine any teacher of any primary school in their township, and if found wanting in the requisite qualifications, they may annul any certificate given to such teacher by giving to such person ten day's written notice to that effect, and filing the same in the office of the clerk of their township.

SEC. 31. It shall be the duty of the inspectors to visit all such schools in their townships, at least twice in each year, as shall be organized according to law, to inquire into the condition, examine the scholars, and give such advice to both teachers and scholars as they shall deem proper.

SEC. 32. In case of the death, or removal, or disability to act of any one of the inspectors, the board shall fill such vacancy by appointment.

SEC. 33. Whenever any district board shall fail to supply any vacancy within the time limited in section twenty, the board of inspectors shall fill the same by appointment.

SEC. 34. The inspectors shall be entitled to receive for their services the sum of one dollar per day, to be audited and paid as the accounts of other township officers are audited and paid.

SEC. 35. Any person elected or appointed school inspector who shall neglect or refuse, without sufficient cause, to serve as such, shall forfeit to the use of the school fund of his township the sum of twenty-five dollars, to be recovered as prescribed in the twenty-fifth section of this act.

SEC. 36. The township clerk shall be ex-officio clerk of the board of school inspectors, and shall have power and it shall be his duty,

*First.* To attend all meetings of the inspectors and to prepare, under their directions, all their reports, estimates and apportionments of school moneys, and record the same and all their proceedings in a book to be kept for that purpose.

*Second.* To receive and keep all reports made to the inspectors from the directors of the several school districts, and all the books and papers belonging to the inspectors, and file the same in his office.

*Third.* To receive all such communications as may be directed to him by the superintendent of public instruction, and dispose of the same in the manner directed therein.

*Fourth.* To transmit to the clerk of the district court all such reports as may be made for such clerk by the inspectors, within the time limited in this act, and generally to do and execute all such things as belong to his office, and may be required of him by the inspectors.

SEC. 37. It shall be the duty of each and every clerk of the district court, to receive all such communications as may be directed to him by the superintendent of public instruction, and dispose of the same in the manner therein directed.

SEC. 38. It shall be the duty of each clerk of the district court, on or before the twentieth of November of every year, to make and transmit to the superintendent of public instruction, a report in writing, containing the whole number of townships in his county, distinguishing townships from which the required reports have been made to him by the inspectors of schools, and containing a certified copy of all their reports; and the board of supervisors or commissioners of each county

are hereby authorized to allow to the clerk of the district courts such compensation as they may deem proper for the services he may perform under and by virtue of the provisions of this act.

SEC. 39. Any clerk who shall neglect or refuse to make such report by the time so limited, shall, for each offense, forfeit the sum of one hundred dollars, to the use of the schools of said county, to be recovered in an action of debt to be commenced forthwith by and in the name of the superintendent of public instruction. And the money so recovered shall, when received by the superintendent, be paid into the treasury of the county, to the credit and for the use of the district or districts, which may suffer from such neglect of the clerk; and the sum may be drawn out by the proper authority of said district or districts.

SEC. 40. The moneys to be hereafter distributed annually for the support of primary schools, shall be payable on the first Monday of January in each year, on the warrant of the auditor of public accounts to the treasurers of the several counties.

SEC. 41. The treasurers of the counties shall apply for and receive such moneys as are apportioned to their respective counties when the same shall become due.

SEC. 42. The treasurer of each county, when he shall receive such moneys, shall give notice in writing to the chairman or clerk of the board of school inspectors of each township in his county, of the amount of school and library moneys apportioned to such township, and shall hold the same subject to the order of the inspectors.

SEC. 43. In case any moneys apportioned to any township shall not be applied for by such inspectors, the moneys so remaining shall be added to the sums next received by the treasurer for distribution from the superintendent of public instruction, and in the same proportion distributed.

SEC. 44. Whenever the clerk of any county shall receive from the superintendent notice of the amount of money to be

disbursed in the several townships in his county, he shall file the same in his office, and within one week transmit a certified copy thereof to the clerk of the board of commissioners, which copy said clerk shall lay before the commissioners at their next regular meeting.

SEC. 45. It shall be the duty of the commissioners, at such meeting, to add to the sums of money to be raised in each of the townships of the county, a sum equal to that which shall have been apportioned in such township from the school fund to be levied and collected in the same manner as other moneys are directed to be raised in the townships.

SEC. 46. The commissioners shall cause and require the collector of each township by their warrant to pay such moneys, when collected, to the chairman of the board of school inspectors in such township for the use of schools therein.

SEC. 47. Should any township neglect or refuse to elect a board of school inspectors, the collector shall pay the moneys so collected to the county treasurer to be apportioned among the several townships as provided in the fortieth section of this act.

SEC. 48. Each and every officer created by the provisions of this act, who shall receive, by virtue of his office, any books, papers, or moneys, and shall refuse to deliver the same to his successor in office, or shall wilfully mutilate or destroy the same, or any part thereof, shall be deemed guilty of a misdemeanor and liable to a fine of not less than fifty dollars nor more than five hundred, at the discretion of the court.

SEC. 49. All acts and parts of acts coming within the purview of this act, are hereby repealed.

Approved January 16, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*,  
p. 101.

AN ACT DEFINING THE DUTIES OF SUPERVISORS OF ROADS AND HIGHWAYS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all male persons between twenty-one and fifty years of age, who have resided one month in this territory, and who are not a county or township charge or otherwise exempt by law, shall be liable yearly and every year to do and perform three days work on the public roads, under the direction of the supervisor within whose district they may respectively reside.

SEC. 2. That it shall be duty of every supervisor to order out every such person resident as aforesaid, between the first days of April and October annually, to do and perform the work aforesaid on the public roads within his district; and if any such resident being personally warned by the supervisor, or by leaving a written notice at his place of abode, or by some person under the direction of the supervisor by whom such warning can be proven, shall refuse or neglect, having had at least three days' notice, to attend by himself or substitute to the acceptance of the supervisor on the day and at the time and place directed by the supervisor, or having attended shall refuse to obey the directions of the supervisor, or shall spend the time in idleness and inattention to the duties assigned to him, every such delinquent shall forfeit and pay for each day he shall so refuse or neglect to attend, or for any of the offences above specified, the sum of one dollar and fifty cents, to be recovered by action of debt before any justice of the peace having jurisdiction thereof, at the suit of the supervisor within whose district such delinquent may reside; and the money so collected shall be paid over to the township treasurer and accounted for by the supervisor at the annual settlement with the trustees of his township: *Provided,* That in counties where townships are not organized such forfeiture so collected shall be paid into the county treasury and appropriated as provided for in this act.

SEC. 3. That in case any person shall remove from one

district to another who has, prior to such removal, performed the whole or any part of the labor aforesaid, or in other respects has paid the whole or any part of the amount aforesaid in lieu of said labor, and shall produce a certificate of the same from the supervisors of the proper district, such certificate shall be a complete discharge for the amount therein specified.

SEC. 4. That every person called upon to perform any labor upon public roads and highways under any of the provisions of this act, shall appear at the place appointed by the supervisor, at the hour of eight o'clock in the forenoon, with such necessary tools and implements as said supervisor may direct, and the supervisor may, if necessary for the improvement of the roads, order any person owning the same to furnish a team of horses or oxen, and wagon, cart, scraper, or plough, to be employed or used on the roads under the direction of said supervisor, who shall allow such person a reasonable compensation for the use of such team, wagon, cart, scraper, or plough in discharge of any labor due from said person.

SEC. 5. That all persons who may be deemed by the supervisor unable to perform or cause to be performed the three days' work required by this act, shall be exempted from the requisitions of the same.

SEC. 6. That whenever it shall happen in consequence of sickness, absence from home, or any other cause that the three days' work aforesaid shall not be performed within the time specified in this act, the supervisor shall be authorized to require the performance of such work at any other time.

SEC. 7. That the county commissioners or the trustees of townships when the same shall be organized, shall, as often as they may deem it necessary, but not oftener than once a year, divide their respective counties or townships or any part thereof into suitable and convenient road districts, and cause a brief description of the same to be entered on the county or township records, and in case any public road shall be estab-

lished as a part of the line or boundary of any township where townships are organized, the trustees of the adjoining townships shall meet at some convenient place as soon after such division as convenient, and apportion such road or roads between the two townships as justice and equity may require, for the purpose of opening and improving the same, and the supervisors and inhabitants of each township shall be bound to work on said road or roads accordingly.

SEC. 8. That the several supervisors within their respective districts, shall collect, by suit or otherwise, all fines, forfeitures, and penalties, arising and accruing under the provisions of this act, unless the collection thereof is herein provided for, and pay the same into the township treasury, if the townships are organized on or before the first Monday in March, otherwise into the county treasury on or before the first Monday of April annually, taking the treasurer's receipt for the same, which receipt shall be the proper voucher for the supervisor to settle with the trustees or county commissioners for the amount thereof, and all fines and forfeitures sued for and recovered under the provisions of this act by any other person than a supervisor shall be paid over within twenty days by the justice of the peace or constable collecting the same to the township treasurer, if townships are organized, if not, to the county treasurer, taking a receipt therefor, and the trustees of townships or county commissioners shall cause all moneys so paid into the township or county treasury to be immediately appropriated to repairing the public roads in such road district wherein such fine or forfeiture accrued, and if any person shall be sued for doing or performing any act or thing required or authorized by this act, such person may plead the general issue, and give this act and the special matter in evidence, and no suit or action shall be brought or maintained unless it shall have been commenced within six months after the cause of such action shall have arisen: *Provided*, That nothing in this section shall be so construed as to prevent the trustees of townships or county commissioners from collecting

or recovering any moneys in the hands of the township or county treasurers or supervisors of roads and highways.

SEC. 9. That it shall be the duty of each and every supervisor to open or cause to be opened all public roads and highways which have been or may hereafter be laid out and established through any part of the district assigned to such supervisor, and keep the same in repair, for which purpose the supervisors are hereby authorized to enter upon any unimproved lands near or adjoining the public roads, to cut and carry away any timber, to dig or cause to be dug and carried away any gravel, sand or stone, or gather any loose stone which may be necessary to improve or repair the roads, and to enter on any lands adjoining or lying near the roads, to make such drains or ditches through the same as they may deem necessary for the benefit of the roads, doing as little injury as may be to said lands, and the drains or ditches so made shall not be stopped or obstructed by the owner or occupier of such lands or any other person or persons under the penalty of forfeiting a sum not exceeding twenty dollars for each offence, to be recovered and appropriated as provided in the preceding section of this act.

SEC. 10. That if any person or persons shall feel aggrieved by any supervisor's cutting or carrying away any timber or stone as aforesaid, they may make complaint thereof to the county commissioners of the proper county at any regular meeting within six months after the cause of such complaint shall exist, and the commissioners shall appoint three disinterested landholders of the county whose duty it shall be after taking an oath or affirmation to discharge their duty faithfully and impartially, to proceed and examine the matter complained of by the complainant, and assess and determine the damages, if any, and they shall report the same in writing to the commissioners at their next meeting thereafter, and if the commissioners shall be satisfied that the amount so assessed and determined be just and equitable, they shall cause the same to be paid to the complainant out of the county treasury, but

if upon view the said landholders should be of opinion that there is no grievance or just cause of complaint, the person so complaining shall pay the costs of such view.

SEC. 11. That each supervisor within his district shall erect and keep up, at the expense of the county, at the forks of every territorial or county road, a post and guide board, or figure board, containing an inscription in legible letters, directing the way and distance to the next town or towns, or public place or places, situated on each road respectively; said post to be at least six inches in diameter, and not less than twelve feet high, and well set in the ground.

SEC. 12. That any time during the year when any public road shall be obstructed by the fall of timber or any other cause, or any bridge shall be impaired so that the passage of teams or travellers on said road or bridge shall be dangerous, and the supervisor in the district in which such obstruction or impaired bridge may exist, shall be notified of the same, it shall be his duty to cause such obstruction to be removed or bridge repaired forthwith, for which purpose he shall immediately order out such number of the inhabitants of his district as he may deem necessary to remove said obstructions or repair said bridge, and the persons so ordered out shall, after having had one day's notice to attend as aforesaid, be subject to the same restrictions and liable to the same penalties as if ordered out under the provisions of the second and fourth sections of this act.

SEC. 13. That in all cases when any person shall, under the direction of his supervisor, perform more labor on the public roads than may be due from him, the supervisor shall give such person a certificate specifying the amount of extra labor so performed, which certificate shall be assignable and received for the amount specified in such certificate in discharge of any labor within the same road district, which may be due from the holder of such certificate in any succeeding year under the provisions of this act: *Provided*, That the preceding section shall not authorize any supervisor to require

any person to perform more than two days' work in any one year over and above the amount of labor due from such person agreeably to the provisions of the first section of this act.

SEC. 14. That where townships are organized the trustees shall meet at the place of holding township elections, on the first Monday of March annually, at which time and place the several supervisors of the township shall attend, and each produce his lists and accounts, together with the township treasurer's receipts for all fines, penalties, and forfeitures by him collected, and the trustees are hereby authorized and required to adjust and settle all accounts so produced to them, and allow such amount for delinquencies as they shall deem just and reasonable; and, if upon a fair and accurate settlement there shall appear to be a balance due to any supervisor for his services under this act, the trustees shall give him an order on the township treasurer for the amount due: *Provided*, That the supervisor shall, in all cases, be held accountable for the full amount of labor due in his district, unless for good cause shown the trustees shall deem it just to remit the same: *And provided further*, That in counties where townships are not organized the county commissioners shall annually on the first Monday in April, settle the accounts of the supervisors within their respective counties agreeably to the provisions of this; and the supervisors of such counties shall attend upon said commissioners on said day.

SEC. 15. That each and every supervisor who shall neglect or refuse to perform the several duties enjoined on him by this act, or who shall, under any pretense whatever, give or sign any receipt or certificate purporting to be a receipt or certificate for labor performed or money paid, unless the labor shall have been performed or money paid prior to the giving or signing such receipt or certificate; every supervisor so offending shall forfeit for every such offence not less than five dollars nor more than twenty-five dollars, to be recovered by indictment in the district court, or by action of debt before any justice of the peace having jurisdiction of the same; and

it is hereby made the duty of the trustees of the township in counties where the same are organized, and county commissioners where townships are not organized, to prosecute all offences against the provisions of this act: *Provided*, That if any supervisor shall conceive himself aggrieved by the judgment of the justice of the peace, he may appeal to the district court as in other cases.

SEC. 16. That each supervisor shall receive for his services for each day employed under the provisions of this act over and above three days the sum of one dollar, to be paid out of the township treasury on the order of the trustees where townships are organized, but in counties where townships are not organized the supervisor shall be paid out of the county treasury on the order of the county commissioners.

SEC. 17. That the several boards of county commissioners in counties where townships are not organized, shall annually at their April session, appoint a suitable number of supervisors for such road districts as are not provided for by law, and they may fill vacancies at any time when they may occur, and shall cause the supervisors by them appointed to be notified thereof in writing. That any person who shall destroy or in any wise deface or obliterate any guide board or mile post set up according to the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined the sum of not less than ten nor more than fifty dollars, and be imprisoned not less than one month nor more than three months at the discretion of the court.

SEC. 18. That bridges on territorial and county roads shall not be less than sixteen feet wide. It shall be the duty of the judges of the district court to give the foregoing section of this act in charge to the grand juries at each term of their respective courts.

Approved January 17, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*,  
p. 115.

## AN ACT RELATING TO THE AUCTIONEERS AND AUCTION SALES.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the governor of this territory shall appoint, upon application from any county within the same, one or more persons as auctioneers for such county; such auctioneers so appointed shall be liable to any tax the county commissioners may think proper, not exceeding one hundred dollars per annum, upon payment of which tax a license shall be granted by said county commissioners to any person appointed as above to act as auctioneer within the county.

SEC. 2. Any person who shall act as auctioneer without appointment and license as provided above, shall be liable to the county in a penalty not exceeding two hundred dollars, to be collected by action of assumpsit in the proper court.

SEC. 3. If any auctioneer shall receive for sale by auction any goods from any minor or servant, knowing him to be such, or shall sell by auction any goods except books, before sunrise or after sunset, he shall forfeit to the county a sum not exceeding two hundred dollars, to be recovered by action of debt or indictment.

SEC. 4. Every auctioneer shall keep a fair and particular account of all goods and chattels sold by him, of the names of the persons of whom the same were received, and the names of the persons to whom the same shall have been sold.

SEC. 5. Nothing in this act shall prevent any person from selling his own property by public sale or auction, nor permit sheriffs, deputy sheriffs, coroners, constables, collectors of taxes, executors, administrators, guardians, or any other person required by law to sell any real or personal estate from selling such property by public sale or auction.

SEC. 6. No appointment as above mentioned shall continue in force for more than one year from the date thereof.

Approved January 17, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*, p. 123.

NOTE.—The word “permit” is in the enrolled bill as printed here, in second line of fifth section, probably intended “prevent.” [SUPERVISOR.]

**AN ACT FOR OPENING AND REGULATING ROADS AND HIGHWAYS.**

**SECTION 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all county and territorial roads which have been or may hereafter be laid out and established agreeably to law within this territory, shall be opened and kept in repair in the manner hereinafter provided; and all county roads shall hereafter be laid out and established agreeably to the provisions of this act, and all county roads shall be sixty feet wide.

**SEC. 2.** That all applications for laying out or altering any county road, shall be by petition to the commissioners, signed by at least twelve house-holders of the county residing in the vicinity where said road is to be laid out or altered, and said petition shall specify the place of beginning, the intermediate points, if any, and the place of termination of said road.

**SEC. 3.** That previous to any petition being presented for a county road, or for the alteration of a county road, notice thereof shall be given by advertisement set up at the place of holding county commissioners' courts, and three public places in each township through which any part of such road is designed, to be laid out or altered at least thirty days' previous to the meeting of the commissioners, at which the petition shall be presented; and on the petition being presented and the commissioners satisfied that notice has been given as aforesaid, they shall appoint three disinterested house-holders of the county as viewers of said road, and a skillful surveyor to survey the same, and shall issue an order directing said viewers and surveyors to proceed on a day to be named in said order, or on their failing to meet on said day, within five days thereafter, to view, survey, and lay out, or alter said road.

**SEC. 4.** That it shall be the duty of the viewers and surveyor appointed as aforesaid, after receiving at least six days' previous notice by one of the petitioners, to meet at the time and place specified in the order of the commissioners afore-

said, or within five days thereafter, and after taking an oath or affirmation faithfully and impartially to discharge the duties of their appointments respectively, shall take to their assistance two suitable persons as chain carriers and one marker and proceed to view, survey and lay out or alter said road as prayed for in the petition, or as near the same as in their opinion a good road can be made at a reasonable expense, taking into consideration the utility, convenience and inconvenience and expense which will result to individuals as well as to the public, if such road shall be established and opened or altered, and the surveyor shall survey such road under the direction of the viewers, and cause the same to be conspicuously marked throughout, noting the courses and distances, and at the end of each mile shall cause the number of the same and also the commencement and termination of said road or survey to be marked on a tree or monument erected for that purpose. He shall also make out and deliver to one of the viewers, without delay, a correct certified return of the survey of said road and a plat of the same, and the viewers shall make and sign a report in writing, stating their opinion in favor or against the establishing or alteration of such road, and set forth the reasons of the same, which report, together with the plat and survey of said road or alteration, shall be delivered to the county commissioners' clerk by one of the viewers on or before the first day of the session of the county commissioners then next ensuing, and it shall be the duty of the commissioners on receiving the report of the viewers aforesaid, to cause the same to be publicly read on two different days of the same meeting, and if no legal application shall be made to them for a review of said road or alteration or petition for damages between the first day of their session, at which the report and survey are made, and the second day of their next stated session they shall cause said report, survey and plat to be recorded, and from thenceforth said road shall be considered a public highway, and the commissioners shall issue their order directing said road to be opened. But if the

report of the viewers be against such proposed road or alteration, then no further proceedings shall be had thereon, and the obligor or obligors in the bond receiving the payment of costs and expenses shall be liable for the full amount of such costs and expense: *Provided*, That in all cases where an oath or affirmation is required to be taken by any person under the provision of this act, the same may be administered by the surveyor or by one of the viewers or reviewers who have previously been sworn or affirmed themselves.

SEC. 5. That after the viewers of any county road shall have made return in favor of the same agreeably to the preceding section and before said return shall be recorded and the road established, it shall be lawful for any landholder of the county to apply to the commissioners for a review of said road by petition signed by at least twelve house-holders residing in that part of the county through which said road is proposed to be established, and the commissioners shall, on such petition being presented and they satisfied it is just and reasonable, appoint five disinterested qualified voters of the county to view said road and issue their order to said viewers directing them to meet at a time specified in such order or within five days thereafter; and said viewers shall meet after having received six days' previous notice by one of the petitioners, and after taking the oath or affirmation required by the preceding section, shall proceed to examine the route surveyed for said road by the former viewers, and make a report in writing to the commissioners stating their opinion in favor of or against the establishment of said road and their reasons for the same, and if the report of the viewers be in favor of said road the same shall be established, recorded and opened agreeably to the provisions of this act, and the person or persons bound for the same to pay into the county treasury the amount of the costs of such review, but if the report be against the establishment of such road, no further proceedings shall be had thereon, before the commissioners and the persons executing the first bond shall pay into the county treasury the amount

of costs and expenses of the first view and survey and review of said road.

SEC. 6. That if any person or persons through whose land any territorial or county road may be laid out shall feel injured thereby, such person or persons may make complaint thereof to the county commissioners at any time between the session of the commissioners at which the report of said road is made, and the second day of their next stated session, and the commissioners shall appoint three disinterested house-holders of the county, whose duty it shall be after having been duly sworn or affirmed to discharge their duty faithfully and impartially to proceed and view said road the whole distance the same may have been established through the premises of the complainant, and assess and determine how much less valuable the land or premises of the complainant has been or will be rendered by the opening of said road, and they shall report the same in writing to the commissioners at their next meeting thereafter, and if the commissioners shall be satisfied that the amount so assessed and determined be just and equitable and that said road will, in their opinion, be of sufficient importance to the people to cause the damages to be paid by the county, they shall order the same to be paid to the petitioner from the county treasury, but if in their opinion the said road is not of sufficient importance to the public to cause the same to be paid by the county, they may refuse to establish the same a public highway, unless the damages and expenses are paid by the petitioners.

SEC. 7. That when any county road shall be considered useless, and any twelve house-holders residing in that part of the county where such road is established may make application by petition to the commissioners of the county to vacate the same, setting forth in said petition the reasons why said road ought to be vacated, which petition shall be presented and publicly read at a regular session of the commissioners, and no other proceedings shall be had thereon until the next stated session of said commissioners, when it shall be again

read as aforesaid, and if no objection be made the commissioners may on the last day of that session declare said road vacated or any part thereof which they may deem unnecessary to keep open for public convenience; but if objection be made in writing, signed at least by twelve house-holders residing in the neighborhood of the road proposed to be vacated, the commissioners shall appoint three disinterested persons to view said road, who shall take the same oath or affirmation as is required by the fourth section of this act, and proceed to view the road aforesaid, and make a report of their opinion thereon, and their reasons for the same to the commissioners; and if said viewers shall report in favor of vacating said road or any part thereof, the commissioners may, if they shall deem it reasonable and just, declare said road vacated agreeably to the report of the viewers, but in case said viewers shall report against vacating said road then and in that case no further proceedings shall be had thereon: *Provided*, That previous to any petition being presented under the provisions of this section the same notice shall be given as is required by the third section of this act.

SEC. 8. That when the place of beginning or true course of any territorial or county road shall be uncertain by reason of the removal of any monument or marked tree by which such road was originally designated, or from any other cause, the county commissioners of the proper county may appoint three disinterested persons, citizens of the county, to review and straighten said road, if they shall deem it necessary; and the reviewers shall cause said road to be correctly marked throughout as in case of new roads, and a correct survey to be made of the same and shall make return of said survey and plat of said road to the commissioners, who shall cause the same to be recorded as in other cases, and from thenceforth said road surveyed as aforesaid, shall be considered a public highway.

SEC. 9. That if any person or persons through whose land any territorial or county road is or may be established, shall

be desirous of turning said road through any other part of his or her land, such person or persons may, by notice and petition agreeably to the second and third sections of this act, apply to the commissioners of the county while in session to permit him or them to turn said road through any other part of his, her or their land, on as good ground or without increasing the distance to the injury of the public, and upon the receipt of such petition the commissioners shall appoint a surveyor and three disinterested house-holders of the county as viewers of said road, who, or any two of them, shall proceed to view and survey the ground over which said road is proposed to be turned, and ascertain the distance which said road will be increased by such proposed alteration, and make out a report in writing, stating the several distances so found, together with their opinion as to the utility or inutility of making said alteration, and if said viewers shall report to the commissioners that the prayer of the petitioner or petitioners is reasonable, and that the alterations will not place the road on worse ground or increase the distance to the injury of the public, they shall, upon receiving satisfactory evidence that the proposed new road has been opened a legal width and in all respects made equal to the old road for the convenience of travellers, the commissioners aforesaid may declare said new road a public highway, and make record thereof, and at the same time vacate so much of the old road as is embraced by the new, and the person or persons desiring the alteration aforesaid, shall pay all the costs of the view, survey and return of said alteration.

SEC. 10. That if any person who shall be appointed by the county commissioners as a viewer, reviewer or surveyor of any road, shall refuse or neglect to perform the duties required by this act, without making satisfactory excuse for such refusal or neglect, he shall be fined in any sum not exceeding five dollars, to be recovered by action of debt by any person suing for the same before any justice of the peace having jurisdiction of the same, and shall be paid over without

delay to the county treasurer by the justice of the peace or constable collecting the same, taking his receipts therefor, and the county commissioners shall cause all fines which shall be paid into the county treasury under the provisions of this act, to be expended on roads and bridges within their county.

SEC. 11. That the persons required to render services under this act, shall receive compensation for each day they shall be necessarily employed, as follows, to wit: viewers and reviewers, one dollar and fifty cents each; chain carriers and markers, one dollar and twenty-five cents each; and surveyors two dollars and fifty cents, to be charged as costs and expenses, and paid out of the county treasury on the order of the county commissioners.

SEC. 12. That when it shall become necessary to establish a road on a county line, the inhabitants along such line may petition the commissioners of their respective counties for a view of such road in the manner pointed out in the preceding section of this act, and it shall be the duty of such boards of commissioners for each of counties interested, to appoint two discreet citizens as viewers, who, or a majority of them, shall meet at the time and place named in the order of the commissioners of the oldest county interested, who shall appoint a surveyor, and the viewers and surveyor appointed as aforesaid, shall make their report in writing, for or against such road to the commissioners of the counties concerned, and the said commissioners, upon receiving such report shall in all respects be governed by the provisions of this act.

SEC. 13. That if on receiving such report the commissioners of all the counties interested shall be of opinion that such road if opened would be of public utility, they shall order the same to be opened in the manner pointed out by this act.

SEC. 14. That when any road is located under the provisions of the twelfth and thirteenth sections of this act, it shall be the duty of the county commissioners or trustees of town-

ships adjoining such road to select one from their number whose duty it shall be to meet at some convenient place near the line of the same (the time and place to be appointed by the commissioners or trustees of the oldest county or township interested) previous to the time appointed by law for apportioning labor to their respective road districts, and shall assign a sufficient number of persons, if practicable, to open such road and keep the same in repair, dividing the road in such manner that the persons so assigned may work under the orders of the supervisors in the county or township to which they belong, and the supervisors and persons so assigned shall be governed by the provisions of the act entitled "An act defining the duties of supervisors of roads and highways."

SEC. 15. That on all applications made under the provisions of this act, the county commissioners shall before granting any order thereon require of the person or persons making such application a bond with one or more sufficient securities, made payable to the county treasurer, and approved by the county commissioners, for the use of the county, conditioned that the persons making such application for a view, review, alteration or vacation of any road, or damages on the same (as the case may be) shall pay into the treasury of the county the amount of all costs and expenses accruing on such view, review, alteration or vacation, on application for damages in case the same shall not be granted or the proceedings had thereon finally confirmed and established.

SEC. 16. That all bonds given under the provisions of this act shall be deposited with the county commissioners' clerk, to be by him prosecuted under the order of the county commissioners, where the same shall have become forfeited and money paid into the county treasury for the use of the county.

Approved January 17, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1839-40,*  
*p. 133.*

AN ACT TO LOCATE THE SEAT OF JUSTICE IN AND FOR THE COUNTY OF JONES.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That John G. M'Donald of Jackson county, and Franklin Moffatt of Delaware county, and Thomas M. Isett of Muscatine county, be and they are hereby appointed commissioners to locate and establish the seat of justice in and for the county of Jones.

SEC. 2. The said commissioners shall, before they enter upon their duties as commissioners, take and subscribe before some district judge or justice of the peace, the following oath, to wit: "I, \_\_\_\_\_ one of the commissioners appointed to locate the seat of justice in and for the county of Jones, do hereby solemnly swear (or affirm) that I will perform the duties imposed on me by said appointment honestly and faithfully, according to the best of my abilities, and according to the law relative to locating said county seat. And I do further swear (or affirm) that I am not directly or indirectly interested in said location; but that in locating said county seat, I will be actuated only by a desire to the best interests of said county, without the slightest partiality towards any person or persons, and without bias from fear, favor or recompense, or the hope of any gain or advantage to myself in any respect whatever."

SEC. 3. That said commissioners, or a majority of them, shall meet at the house of Thomas Dixon, on or before the second Monday in April, A. D. eighteen hundred and forty, and shall forthwith proceed to examine into and determine upon the most eligible point for the seat of justice of said county, having due reference to a central and healthful location, convenience to timber and water, and to the accommodation to the people of said county.

SEC. 4. So soon as said commissioners shall have determined upon the place where said seat of justice shall be located, it shall be their duty to proceed forthwith to lay out

one quarter section of land into lots, outlots, streets and squares, and to determine upon the lots or places upon which the public buildings shall be erected, and to name said seat of justice by such name as they may think proper, and forthwith commit their proceedings to writing and sign the same, and file them with the clerk of the district court of said county, whose duty it shall be to record the same in the proper book, and the place thus selected shall be the future and permanent seat of justice of said county.

SEC. 5. Said commissioners shall receive three dollars per diem for the time they shall be actually engaged in the discharge of their duties as above provided, not exceeding twenty days, and three dollars for every twenty-five miles going from their respective residence to and returning from said seat of justice, to be paid out of the treasury of the county of Jones.

SEC. 6. *Be it further enacted,* That in case of vacancy by death or otherwise in said board of commissioners, it shall be the duty of the county commissioners in the county where such vacancy may occur, to appoint some suitable person who shall be duly authorized to fill said vacancy by subscribing to and taking the oath provided in this act.

SEC. 7. That it shall be the duty of the county commissioners of said county of Jones, within thirty days after the seat of justice of said county shall have been located and the site laid out in lots as aforesaid, to borrow a sum of money sufficient to enter at the land office the quarter section of land on which said seat of justice is located, in accordance with the act of Congress approved May twenty-six, eighteen hundred and twenty-four, entitled "An act granting to counties or parishes of each state and territory of the United States, in which public lands are situated, the right of pre-emption to one quarter section of land, for seats of justice within the same;" and to pay interest for the same not exceeding forty per cent, and forthwith to enter the said quarter section of land at the land office at Du Buque.

SEC. 8. That it shall be the duty of the said county com-

missioners, within ninety days after said quarter section shall have been entered as above provided, to proceed to sell at public auction, for cash, a sufficient number of lots in said seat of justice, to refund the money borrowed to enter said quarter section, together with the interest accruing thereon.

SEC. 9. That it shall be the duty of said county commissioners to give notice of said sale by publishing the same in the "Iowa News," at Dubuque, and by posting up written notices in four of the most public places in said county at least sixty days preceding said sale.

Approved January 17, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1839-40*,  
p. 139.



## NUMBER XIX.

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The documentary material presented in this number is illustrative of the development of Local Government as reflected in the Laws of the Territory of Iowa enacted at the extra session of the Legislative Assembly in 1840, and at the regular session of the Legislative Assembly "which commenced on the first Monday of November, A. D., 1840."



AN ACT TO RE-LOCATE THE COUNTY SEAT OF JACKSON COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That Andrew Bankson of Du Buque county, William Hutton, of Jones county, and Abner Beard, of Clinton county be, and they are hereby appointed, commissioners to re-locate the county seat of Jackson, whose duty it shall be, or a majority of them, to meet at the town of Bellview, on the second Monday of October next, and proceed forthwith to locate the seat of justice of said county, having reference to the geographical centre, water, timber, and the welfare and convenience of the present and future population.

SEC. 2. The commissioners aforesaid shall, before they enter upon their duties as commissioners, take and subscribe, before some District Judge or Justice of the peace, the following oath or affirmation, to wit: We, the commissioners to relocate the seat of justice in and for the county of Jackson, do solemnly swear, (or affirm, as the case may be,) that we will perform the duties imposed on us by said appointment, honestly and faithfully, and according to the best of our abilities, and according to the law relative to locating said county seat; and we do further swear, that we are not, directly or indirectly interested in said location, but that in locating said county seat: we will be actuated only by the best interests of said county, without the slightest partiality towards any person or persons, without bias from fear, favor or recompence, or the hope of any gain or advantage to ourselves in any respect whatever.

SEC. 3. That so soon as said commissioners shall have determined upon the place where said seat of justice shall be located, it shall be the duty of said Commissioners to name said seat of justice by such name as they may think proper, and shall forthwith commit their proceedings to writing and sign the same, and file them in the office of the county clerk

of the District Court of said county, whose duty it shall be to record the same in the record book.

SEC. 4. That said commissioners shall each receive three dollars per diem for the time they are actually employed in the location of said seat of justice, not exceeding ten days, and three dollars for every twenty-five miles travel going to and from Bellview to their place of residence, to be paid out of the Treasury of Jackson county by an order from the board of county commissioners.

SEC. 5. That in case of vacancy by death or otherwise in said board of commissioners, it shall be the duty of the county commissioners, in the county where such vacancy shall occur, to appoint some suitable person to fill said vacancy.

SEC. 6. That the site selected, as aforesaid, shall be the seat of justice for Jackson county from and after the first day of December next, provided that until suitable buildings are erected at the place selected as the county seat the District Court shall be held at the town of Bellview.

Approved, July 24, 1840.

—*Reprinted from Laws of the Territory of Iowa, extra session 1840, p. 6.*

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AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ORGANIZATION OF THE COUNTY OF DELAWARE, AND TO LOCATE THE COUNTY SEAT THEREOF."

Whereas, The commissioners appointed by "An act to provide for the organization of the county of Delaware, and to locate the seat of justice thereof," approved December 20, 1839, did wholly fail to meet on the first of May, eighteen hundred and forty, and to locate the county seat for said county, according to the provisions of said act—therefore,

*Be it enacted by the Council and House of Representatives of the Territory of Iowa, That so much of said act as relates to the meeting of the commissioners for the purpose of locat-*

ing said county seat on or before the first day of May, eighteen hundred and forty, be, and the same is hereby repealed; and that William Smith, senior, of Du Buque county, William Jones, of Jackson county, and Thomas Denson, of Jones county, are hereby appointed commissioners to meet at the house of William Eads, in said county, on the first Monday of October, in the year of our Lord eighteen hundred and forty, or within ten days thereafter, and proceed to permanently locate the county seat in and for said county according to the provisions and requirements of the act to which this is amendatory.

SEC. 2. That the eighth section of the act to which this is amendatory is hereby repealed.

Approved, July 24, 1840.

—*Reprinted from Laws of the Territory of Iowa, extra session 1840, p. 8.*

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AN ACT TO DEFINE THE JURISDICTION OF THE SEVERAL COUNTIES IN THIS TERRITORY THAT FRONT UPON THE MISSISSIPPI RIVER.

Whereas, Doubts have arisen whether the jurisdiction of the several counties in the Territory of Iowa that front upon the Mississippi river extends to the eastern shore of said river, concurrently with any other State or Territory, so far as the said river shall form a common boundary between this Territory and any other conterminous State or Territory, under the act of Congress, approved March 30, 1839, chapter 91—therefore,

*Be it enacted by the Council and House of Representatives of the Territory of Iowa, That from and after the passage of this act, all the counties in this Territory, that are now formed, or which may hereafter be formed, in any part of said Territory, fronting eastward upon the Mississippi river, shall have and exercise jurisdiction, for all civil and criminal pur-*

poses, upon the Mississippi river concurrently with any other conterminous State or Territory so far, and to such extent, as the said river shall form a common boundary between the Territory of Iowa and any other such conterminous State or Territory.

Approved, July 24, 1840.

—*Reprinted from Laws of the Territory of Iowa, extra session 1840, p. 9.*

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AN ACT TO ESTABLISH THE COUNTY SEAT OF LEE COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That at the next general election in the county of Lee, the qualified voters of said county shall be allowed to vote for the location of the seat of justice of said county.

SEC. 2. Every voter may vote for any point as the seat of justice, and the votes shall be returned to the office of the clerk of the board of county commissioners, and the result declared as in other cases, and the clerk thereupon shall cause to be entered upon the records of said board the whole number of votes given for each place named.

SEC. 3. If at said election, any one point shall receive a majority of votes over all the other points, it shall be declared the seat of justice of said county.

SEC. 4. If no one point receives a majority of all the votes cast at said election, then there shall be a second election held on the second Monday of November next, at which second election the two points receiving the highest number of votes at the first election shall be voted for, and none others, and the point for which the highest number of votes is cast shall be declared the seat of justice of said county.

SEC. 5. That the judges of said election, or any one of them, shall have power, and on any person offering to vote, being challenged by any elector who has voted at such elec-

tion, are hereby required to administer an oath to such person offering to vote, true answers to make to such questions touching his qualifications as a voter as shall be propounded to him, and shall examine such person as to his right to vote, and said judges shall not permit any person to vote for said county seat unless he be a qualified voter of said county.

SEC. 6. That any person who may swear falsely, touching his qualifications as a voter, shall, upon indictment, if found guilty, suffer all the pains and penalties of wilful and corrupt perjury.

SEC. 7. As soon as the votes cast at the first election are counted agreeably to law, if it shall appear that no one point has received a majority of all the votes cast at said first election, it shall be the duty of the clerk of the board of county commissioners to write three notices for each election precinct in said county, which notices shall set forth the two places receiving the highest number of votes at the first election, and which places are to be voted for at the second election, and also the day on which said second election is to be held, which notices shall be delivered to the Sheriff of said county, and by him posted up in the following manner, to wit: one notice at the place of voting in each precinct and two others in two of the most public places in each precinct at least ten days before the time of holding said election.

SEC. 8. Said second election shall be conducted in all respects agreeably to the laws regulating general elections, and the point receiving the highest number of votes shall be declared the county seat.

SEC. 9. That it shall be the duty of the county commissioners to receive any bond or bonds for the payment of money, or to receive any donation of land, or other property which shall be applied to aid in erecting public buildings for said county.

Approved, July 27, 1840.

—Reprinted from *Laws of the Territory of Iowa, extra session 1840*, p. 10.

**AN ACT TO DISTRICT MUSQUETINE COUNTY FOR THE ELECTION OF COUNTY COMMISSIONERS.**

**SECTION 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of commissioners in and for Musquetine county be, and they are hereby authorized and required to lay off said county into three county commissioners districts prior to the next general election, dividing, as nearly as possible, the population of said county.

**SEC. 2.** The election of commissioners shall take place in accordance with the provisions of an act of the legislative assembly, entitled "An act organizing a Board of County Commissioners in each county in this Territory," approved December fourteenth, eighteen hundred and thirty-eight, in the same manner as though the county had been districted under the provisions of the above recited act.

**SEC. 3.** This act is to take effect from and after its passage.

Approved, July 27, 1840.

—*Reprinted from Laws of the Territory of Iowa, extra session 1840, p. 12.*

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**AN ACT TO DISTRICT VAN BUREN COUNTY FOR THE ELECTION OF COUNTY COMMISSIONERS.**

**SECTION 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of commissioners in and for Van Buren county be, and they are hereby authorized and required to lay off said county into three county commissioners districts prior to the next general election, dividing, as nearly as possible, the population of said county.

**SEC. 2.** The election of commissioners shall take place in accordance with the provisions of an act of the legislative assembly, entitled "An act organizing a Board of County

Commissioners in each county in this Territory," approved December fourteenth eighteen hundred and thirty-eight, in the same manner as though the county had been districted under the provisions of the above recited act.

SEC. 3. This act to take effect from and after its passage.  
Approved, July 27, 1840.

—Reprinted from *Laws of the Territory of Iowa, extra session 1840, p. 13.*

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**AN ACT TO AMEND "AN ACT TO RE-LOCATE THE COUNTY SEAT OF CLAYTON COUNTY."**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the election of county seat in Clayton county, shall take place on the first Monday of October next in manner directed in the seventh section of the act to which this is amendatory, and not on the first Monday of August.

SEC. 2. This act to take effect from and after its passage.  
Approved, July 28, 1840.

—Reprinted from *Laws of the Territory of Iowa, extra session 1840, p. 14.*

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**AN ACT IN RELATION TO THAT PORTION OF COUNTRY WHICH IS ATTACHED TO THE SEVERAL ORGANIZED COUNTIES IN THIS TERRITORY FOR JUDICIAL PURPOSES.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all the country that is at present, or may hereafter be attached to any of the organized counties in the Territory, be, and the same is hereby attached for revenue, election and judicial purposes, and the inhabitants thereof shall be entitled to and enjoy all the rights and privileges of the county or counties to which they are attached that they would be entitled to were they citizens proper of some organized county.

SEC. 2. *Provided*, That nothing herein contained shall be so construed as to authorize the authorities of any county in this Territory to lay out or open any public road or highway, or to make any public improvement whatever beyond the line to which the Indian title to the land has been or may hereafter be extinguished.

SEC. 3. This act to take effect from and after its passage.  
Approved, July 28, 1840.

—*Reprinted from Laws of the Territory of Iowa, extra session 1840, p. 15.*

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AN ACT TO ESTABLISH THE SEAT OF JUSTICE OF SCOTT COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That for the purpose of permanently establishing the seat of justice of Scott county, an election shall be held at the several precincts in said county, on the third Monday of August next, at which time the qualified electors of said county, shall vote for Davenport or Rockingham, for the seat of justice.

SEC. 2. That to entitle any person to vote at said election, he must be a citizen of the United States, twenty-one years of age, and shall have resided in said county sixty days, and in the Territory six months next preceding said election.

SEC. 3. That the same persons who are or may be appointed judges or managers at the several precincts in said county of the general election, shall be judges or managers of the election directed by this act; and in case of failure of any of them to attend at the hour for opening the polls their places shall be supplied in the manner directed by the law regulating general elections, and the said judges of each precinct shall appoint two suitable persons, having the qualifications of electors, to act as clerks of said election, and the said judges and clerks, before entering upon the discharge of their duties,

shall take an oath before some person authorized to administer the same, honestly, faithfully and impartially to perform the duties required of them by this act.

SEC. 4. That the said judges or any one of them shall have power and on any person offering to vote, being challenged by any elector who has voted at such election, are hereby required to administer an oath to such persons offering to vote, true answers to make to such questions touching his qualifications as a voter as shall be propounded to him, and shall thereupon examine such person as to his right to vote, and said judges shall not permit any person to vote at said election who is not qualified according to the requirements of this act.

SEC. 5. That each of the clerks of said election shall keep a separate poll book or list of voters, and shall enter on his poll book the name of every person voting at his precinct, numbering them from one progressively in the order in which they shall vote with the proper number set opposite each name, and the judges of said election are hereby required to number the vote or ballot (on the back thereof,) of each and every voter with the same number that stands opposite the name of such voter on the clerks' poll books, and the ballot so given and numbered shall be deposited in a box and shall be safely kept by the judges of said election, until disposed of as hereinafter directed. The polls shall be opened at each precinct at the hour of nine o'clock, A. M., and not before, and shall be closed at six o'clock, P. M. of the same day. Upon closing the polls the judges shall proceed openly and in the presence of such electors as may choose to attend to count the ballots so given in, and the clerks shall severally keep a tally of the votes so counted out, designating the name of the town for which said votes or ballots may have been given, and when they shall all have been counted they shall be added up and the aggregate for each town set down in figures and in words at full length, and the said judges and clerks shall certify that the same is a true statement of the votes polled at such precinct, and shall return the said ballots into the box

from which they were taken, and seal up said box; and the said judges shall return said box, containing the ballots so sealed up, and shall also return one of the poll books of each precinct to the clerk of the District Court of Scott county, by three o'clock P. M. of the third day after said election; on which said third day after said election, the judges of the several precincts shall meet at the office of the clerk of said District Court, and shall, in the presence of each other and of the clerk of said District Court, proceed to examine the returns from each precinct, and on said judges, or a majority of them, being satisfied that one of the two places mentioned in the first section of this act has received a greater number of legal votes than the other, said judges shall declare the town having received such majority of votes the seat of justice of Scott county, and the clerk of the District Court shall make an entry of such fact in the minutes of said District Court, and the town so declared to have received a majority of votes shall thenceforth be the seat of justice of Scott county.

SEC. 6. That the ballots and poll books so returned from the several precincts shall be safely kept by the clerk of the District Court in his office for twenty days from the day of said election, at which time he shall destroy said ballots, unless within that time said election shall be contested in the manner hereinafter provided.

SEC. 7. That any three electors who shall have voted at said election may, within twenty days after said election, notify said clerk of the District Court in writing that they contest said election, and if they shall within said twenty days enter into bond with sufficient security to be approved of by said Clerk, payable to said clerk, in the penal sum of three hundred dollars, conditioned to prosecute said contest with effect, or failing therein, to pay all such costs as may accrue in the premises, the said clerk shall immediately notify the judge of said District Court that said election is contested, and the said judge, on receiving such notice, shall appoint a time and place,

in Scott county, for enquiring into and deciding the said contested election, and notice of such time and place shall be given by said clerk by publication in the "Iowa Sun," a newspaper published in said county, not less than fifteen days prior to the time so appointed for the trial of said contested election; and said clerk shall issue subpoenas for all such witnesses as said persons contesting said election, or any other three voters of said county, may require, returnable to the time and place so as aforesaid appointed for said trial.

SEC. 8. That the clerk of said District Court, and the Sheriff of Scott county, shall attend the judge of said court at the time and place so appointed, and the clerk of said court shall deliver to the judge thereof the ballots and poll books returned to him as above provided, and said judge shall proceed to inquire into the legality of said election, and may examine said ballots and poll books, and receive the testimony of all such witnesses as may be produced before him, and shall purge the said polls of all illegal votes that may have been received, and shall decide the said contested election in favor of the town that may have received the greatest number of legal votes at said election, and the clerk of said District Court shall make an entry of the decision of said judge on the minutes of said court as a judgment thereof.

SEC. 9. That if any person shall vote at said election without being qualified as above provided, or who shall vote more than once at said election, or shall vote at more than one precinct in said county, or who shall, for the purpose of voting at said election, swear falsely touching his qualifications as a voter, shall be fined in a sum not less than fifty nor more than five hundred dollars, one half thereof to the use of the county, and the other half to any one who shall prosecute for the same, and shall be further liable to an indictment, and if found guilty of swearing falsely shall suffer all the pains and penalties of wilful and corrupt perjury.

SEC. 10. That if either of the judges or clerks of said election shall be guilty of any wilful violation of any duty

required of them by this act, and shall be thereof convicted on indictment, such person so convicted shall be fined in any sum not less than one thousand nor more than two thousand dollars, or imprisonment not more than twelve months, at the discretion of the jury trying the same.

Approved, July 29, 1840.

—*Reprinted from Laws of the Territory of Iowa, extra session, 1840, p. 16.*

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AN ACT SUPPLEMENTAL TO “AN ACT TO ESTABLISH THE SEAT OF JUSTICE OF SCOTT COUNTY,” APPROVED JULY 1840.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the act to which this is a supplement, and this supplement, shall both take effect from and after the third day of August next.

Approved, July 29, 1840.

—*Reprinted from Laws of the Territory of Iowa, extra session, 1840, p. 19.*

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AN ACT TO REPEAL THE ACTS THEREIN MENTIONED.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all the acts of the Territory of Michigan and the Territory of Wisconsin, which were in force in the Territory of Iowa on the fourth day of July in the year one thousand eight hundred and thirty-eight are hereby repealed.

SEC. 2. The repeal of any act by any law of this Territory shall never be construed to revive any act previously in force, unless such repealing act shall contain an express provision that any such repealed act shall be thereby revived and put in force.

SEC. 3. That "An act respecting seals," approved January 24, 1839, is hereby repealed.

SEC. 4. The repeal of any statutory provision by this act shall not affect any act done, or rightly accrued or established, or any proceeding, suit, or prosecution had or commenced previous to the time when such repeal shall take effect, but every such right, act and proceeding shall remain as valid and effectual as if the provision so repealed had remained in full force.

SEC. 5. No offense committed, and no penalty or forfeiture incurred previous to the time when any statutory provisions shall be repealed, shall be effected by such repeal, except that when any punishment, forfeiture or penalty shall have been mitigated by the laws to be in force after such repeal, such provision shall apply to and control any judgment to be pronounced after the repeal for any offence committed before that time.

SEC. 6. No prosecution for any offence, or for the recovery of any penalty, or forfeiture, pending at the time any statutory provision shall be repealed, shall be affected by such repeal, but the same shall proceed as if any such provision had not been repealed, except that such proceedings shall be conducted according to the provisions of the law in force at and after the time of such repeal.

SEC. 7. The repeal of the laws of Wisconsin, as contemplated in the first section of this act, shall not extend to any law private in its nature, nor to any act conferring rights, privileges, or immunities upon any individual, or association of individuals, or conferring corporate powers upon any county, town, society or individuals.

SEC. 8. None of the statutes of Great Britain shall be considered as law of this Territory.

[Adopted by two thirds of both branches of the legislature, and became a law 30th of July, 1840.]

—Reprinted from *Laws of the Territory of Iowa, extra session, 1840, p. 20.*

AN ACT SUPPLEMENTARY TO AN ACT TO AMEND AN ACT TO  
PROVIDE FOR THE APPOINTMENT OF JUSTICES OF THE PEACE,  
&c., APPROVED JANUARY FOURTEENTH, EIGHTEEN HUNDRED  
AND FORTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That it shall be the duty of the several clerks of the boards of county commissioners within the Territory to furnish one of the judges of election in each precinct within their respective counties two additional poll books for conducting the election for justice of the peace previous to the time of holding elections under the fourth section of the act to which this is supplementary.

SEC. 2. That it shall be the duty of the judges of elections in each precinct to provide a separate box in which they shall deposit the votes polled for justice of the peace, and immediately after they shall have completed the canvass of votes cast in the general election, they shall proceed in like manner to canvass the votes cast for justices of the peace, and said election shall be conducted, and returns made, according to existing laws on the subject.

SEC. 3. That the persons duly elected and qualified agreeably to the provisions of this act, and the act to which this is a supplement, shall hold their offices two years and until their successors are chosen and qualified.

SEC. 4. That the precinct in which Mount Pleasant in Henry county is situated be allowed to elect three justices for said precinct.

That so much of the act to which this is a supplement as comes within the purview of this act is hereby repealed.

This act to take effect and be in force from and after its passage.

Approved, August 1, 1840.

—Reprinted from *Laws of the Territory of Iowa, extra session, 1840, p. 51.*

AN ACT SUPPLEMENTAL TO "AN ACT TO ESTABLISH THE SEAT OF JUSTICE OF SCOTT COUNTY," APPROVED JULY, 1840.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the election for county seat, in first section mentioned, of said act, shall take place on the fourth Monday of August next, and that the qualified electors of said county shall vote at said election for Davenport or Rockingham, or for the northwest fractional quarter of section number thirty, township number seventy-eight, north, of range four, east of the fifth principal meridian.

SEC. 2. That to constitute a qualified elector at any election in said county for county seat, he shall be a citizen of the United States, twenty-one years of age, and shall have resided in said county sixty days next preceding said election.

SEC. 3. That the fifth section of said act shall be so amended as to require the judge of election, when examining the returns in presence of the clerk of the district court, on being satisfied that one of the three places mentioned has a majority of legal votes over the other two places, to declare said place the seat of justice of Scott county.

SEC. 4. That if said judges shall declare that no one place has a majority of legal votes over the other two, then they shall require said clerk to give proper notice that another election will be held on the third Monday of September next, at which election the voters of said county, as qualified in the second section of this act, shall vote for one or the other of two places mentioned, which, at said first election, shall have received the highest number of votes. Said election shall be conducted, returns made and examined, &c. as at the first election.

SEC. 5. This act, and the one to which this is a supplement, shall be so construed as to carry out the design of the legislature to have said county seat located fairly, and to punish all unlawful conduct.

SEC. 6. This act to take effect and be in force from and after the fourth day of August, 1840; and so much of the act to which this is a supplement as contravenes this act is hereby repealed.

*Approved, August 1, 1840.*

—*Reprinted from Laws of the Territory of Iowa, extra session, 1840, p. 51.*

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**AN ACT TO ATTACH BENTON COUNTY TO LINN, FOR JUDICIAL AND OTHER PURPOSES.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That for judicial, election, and revenue purposes, the county of Benton is hereby attached to and embraced within the jurisdiction of Linn county.

SEC. 2. This act shall take effect from and after its passage.

*Approved, November 30, 1840.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41, p. 4.*

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**AN ACT TO AMEND THE ACT ORGANIZING A BOARD OF COUNTY COMMISSIONERS IN EACH COUNTY IN THE TERRITORY.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That so much of said act as makes it the duty of the sheriff of the county, or his deputy, to attend said board, and execute its orders, be so amended, that the said commissioners may at their discretion require his attendance.

*Approved, December 3, 1840.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41, p. 5.*

AN ACT TO DISTRICT THE COUNTY OF WASHINGTON INTO THREE COUNTY COMMISSIONERS' DISTRICTS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county of Washington shall be divided into three districts, for the purpose of electing county commissioners.

SEC. 2. That part of the county of Washington lying west of range line dividing ranges seven and eight, and south of the line dividing townships seventy-six and seventy-seven, north, shall compose the first district.

SEC. 3. All that part of said county lying east of range line dividing ranges seven and eight, and south of the line dividing townships seventy-six and seventy-seven, shall compose the second district.

SEC. 4. All that part of the county lying north of township line dividing townships seventy-seven and seventy-six, north, shall compose the third district.

SEC. 5. At the next annual election there shall be elected one county commissioner from the said first district, resident therein, by the qualified voters of said county; at the next annual election thereafter there shall be elected by the qualified voters of said county, one county commissioner resident in the second district; and at the next annual election thereafter there shall be elected by the qualified voters of said county, one county commissioner resident in the third district, and so on alternately, so long as this act shall remain in force.

*Approved,* December 3, 1840.

—*Reprinted from Laws of the Territory of Iowa, 1840-41,*  
p. 5.

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AN ACT AUTHORIZING WALTER TERRILL TO BUILD A MILL DAM ACROSS THE IOWA RIVER, NEAR IOWA CITY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That Walter Terrill, is

hereby authorized to construct a dam across the Iowa river, in Johnson county, at a point on the south-west quarter of section number three, in township number seventy-nine north, and range number six west, which dam shall not exceed five feet above the ordinary low water mark; and provided said dam be completed within the term of three years from the passage of this act.

SEC. 2. Any person who may injure or destroy said dam, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined and imprisoned at the discretion of the court.

SEC. 3. Nothing herein contained, shall authorize the individual named in this act, his heirs or assigns, to enter upon and flow the lands or mill wheels of any person, without the consent of such person, and he shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity of said dam.

SEC. 4. The Legislature of this Territory reserve to themselves the right to alter or amend this act, so as to provide for the navigation of said river by lock or otherwise.

*Approved, December 15, 1840.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41,*  
p. 7.

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**AN ACT SUPPLEMENTARY TO AN ACT DEFINING THE DUTIES  
OF COUNTY SURVEYORS, APPROVED DECEMBER 25TH, 1838.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That it shall be the duty of all county surveyors, of this Territory to furnish themselves with a good compass of Rittenhouse construction, the needle of which shall be not less than five and one-fourth inches in length, and the nonius of which shall bear not less

than ten degrees variation; also, a two pole chain, of fifty links.

SEC. 2. Whenever a surveyor is required to make a subdivision of a section, as established by the United States survey, he shall proceed as follows, (except when the section is fractional:) Commencing at the quarter section corner, on either the east or west side of the section, and shall run east or west across said section as the case may be, and establish a common centre therefor, on a direct line between said corners, and equally distant from either. Any less sub-division than a quarter section shall be made by proceeding in the same manner, except in fractional sections.

SEC. 3. That no survey made hereafter by any person except the County Surveyor, or his deputy, shall be considered as legal evidence in any court of law or equity within this Territory, except such surveys as are made by mutual consent of parties: *Provided, always,* That where it shall appear that the County Surveyor of the county wherein the lands lie may be a party, or in any manner interested, it shall be lawful for the District Court, on application of either party, to appoint some suitable person in said county, whose duty it shall be to proceed to divide the same, for which service the person so appointed shall be entitled to the same fees as County Surveyors are entitled to for similar services.

SEC. 4. That all irregular pieces of land shall be calculated by latitude and departure.

SEC. 5. That it shall be the duty of the county commissioners of each and every organized county in this Territory, to procure for the use and benefit of their respective counties the field notes of all the surveyed lands within the same; which field notes, when so procured, shall be filed in the office of the clerk of said board, and there carefully preserved for the use and benefit of the citizens of each county respectively: *Provided,* That in all cases where the county surveyor of any county who is now or may have been in office, and who has procured in part or in the whole the field notes of his county,

shall have the privilege of presenting the same to the board of commissioners of his county, which board is hereby authorized to take the same if they are not injured or defaced, and draw an order on the treasurer of their county for the amount so allowed; but in no case shall the commissioners allow the surveyors more for the said field notes than they could be had for at the surveyor general's, or some one of the land offices within this Territory.

SEC. 6. That so much of the act to which this is a supplement, as requires the county surveyors to procure the field notes to their respective counties, be and the same is hereby repealed.

SEC. 7. That this act shall take effect from and after the first Monday in August next.

*Approved, December 21, 1840.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41,*  
p. 8.

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AN ACT ENTITLED, AN ACT TO DESIGNATE AND FIX THE PLACE OF HOLDING THE SEVERAL COURTS FOR THE COUNTY OF LEE.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the District, Probate, and County Commissioners' Courts, for the county of Lee, shall be held in the town of Fort Madison until the public buildings in and for said county are erected.

SEC. 2. It shall be the duty of the board of county commissioners of Lee county, to give notice of the next session of the District Court after the completion of said public buildings, to the Clerk of the District Court; and thereafter all the courts mentioned in the first section of this act shall be held at the county seat.

SEC. 3. It shall be the duty of the Sheriff of Lee county to keep his office in Fort Madison, as long as the district court is held in said town.

SEC. 4. This act to take effect and be in force from and after its passage.

*Approved*, December 22, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 9.

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AN ACT TO DISTRICT THE COUNTY OF DU BUQUE INTO THREE COUNTY COMMISSIONERS' DISTRICTS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That the county of Du Buque shall be divided into three county commissioners' districts, as follows, to wit: That the first district shall consist of the Regan, Dreibilbis, and Whitewater precincts; that the second district shall consist of the Du Buque precinct; and that the third district shall consist of Peru, Darango, Paul's and Hewett's precincts.

SEC. 2. *Be it further enacted*, That at the next general election there shall be elected from the first district, one county commissioner, and that annually thereafter there shall be elected from each district alternately one county commissioner, according to the provisions of the law regulating general elections.

*Approved*, December 30, 1840.

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 14.

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AN ACT TO DISTRICT THE COUNTY OF LINN FOR THE ELECTION OF COUNTY COMMISSIONERS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That the board of county commissioners in and for the county of Linn, be and they are hereby authorized and required to lay off the county aforesaid into three county commissioners' districts, prior to

the first day of August, A. D. eighteen hundred and forty-one, making the division as nearly as possible in proportion to the population of said county; and the districts shall be classified by said commissioners as districts number one, number two, and number three.

SEC. 2. That at the next general election there shall be elected from district number one one county commissioner; and alternately thereafter there shall be elected from each district one county commissioner annually, in accordance with the provisions of an act organizing a board of county commissioners in each county in this Territory, approved December 14th, A. D. eighteen hundred and thirty-eight, in like manner as though the county had been divided under the provisions of said act.

*Approved, December 31, 1840.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41,*  
*p. 19.*

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AN ACT FOR THE RELIEF OF THE CITIZENS OF MUSCATINE COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That those citizens of the county of Muscatine who have not paid their taxes for the year eighteen hundred and forty, shall have until the first Monday in May, A. D. eighteen hundred and forty-one to pay their taxes for the year eighteen hundred and forty; and that the collector shall then proceed to collect the unpaid taxes as provided by section nineteen of an act entitled "An act for assessing and collecting county revenue," approved January twenty-fourth, eighteen hundred and thirty-nine.

SEC. 2. That the collector of taxes of said county shall have until the first Monday of June next to make his returns, as required by the fourteenth section of the act aforesaid: *Provided*, nothing in this act contained shall be so construed

as to authorize said collector to retain moneys already collected.

SEC. 3. This act to take effect from and after its passage.  
*Approved*, January 8th, 1841.

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 26.

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**AN ACT TO DISTRICT THE COUNTY OF JOHNSON INTO COUNTY  
COMMISSIONERS' DISTRICTS.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county commissioners of the county of Johnson be, and they are hereby authorized, to district said county into three districts, for the purpose of electing county commissioners; which districts shall be numbered first, second, and third.

SEC. 2. At the first annual election after said county shall have been districted as aforesaid, there shall be elected, by the qualified electors of said county, one county commissioner in the first district, resident therein; at the second election there shall be elected one county commissioner in the second district; and so on alternately as long as this act is in force.

*Approved*, January 9, 1841.

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 31.

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**AN ACT TO DISTRICT THE COUNTY OF JEFFERSON INTO THREE  
COUNTY COMMISSIONERS' DISTRICTS.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the said county shall be divided into three county commissioners' districts, as follows, to wit: Lick Creek precinct, and Locust Grove precinct, shall be known as district number one; Fairfield precinct, and Blue Point precinct, shall be known as district number two;

Pleasant Prairie precinct, Brush Creek precinct, and Round Prairie precinct, shall be known as district number three.

SEC. 2. *Be it further enacted,* That at the next general election there shall be elected from district number one one county commissioner; and that thereafter annually there shall be elected from each district one county commissioner, alternately, according to provision of the law regulating general elections.

*Approved, January 13, 1841.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41,  
p. 41.*

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AN ACT TO AUTHORIZE THE COMMISSIONERS OF LINN COUNTY  
TO EMPLOY AN AGENT TO SELL LOTS AT MARION, THE  
SEAT OF JUSTICE OF SAID COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the County Commissioners in and for the county of Linn are hereby authorized and empowered to employ an agent, whenever by them deemed necessary, to dispose of and sell lots at Marion, the county seat of Linn county.

SEC. 2. When a person shall be appointed as aforesaid, he shall enter into bonds with good and sufficient securities, to be approved of by the board of county commissioners, in the sum of five thousand dollars, payable to the treasurer of said county, conditional to pay over all moneys by him received from the sale or disposal of lots at Marion, under his appointment, to the county treasurer, and to a faithful and honest discharge of his duties as such agent.

SEC. 3. The county agent shall receive such compensation as he and the county commissioners may agree upon, which shall not exceed ten per cent. of the amount of moneys and notes by him received for the sale of lots; and said agent shall, before entering upon the duties of his appointment, take and

subscribe to the following oath, before the clerk of the District Court: "I do solemnly swear (or affirm) that I will, to the best of my abilities, discharge the duties of county agent without fear, favor or partiality; and will pay over all moneys to the treasurer of Linn county as soon as received by me for lots sold—so help me God."

SEC. 4. The county agent appointed and qualified as aforesaid is hereby authorized and empowered to sell, dispose of and convey, all the right, title, claim and interest, the county of Linn may have, or hereafter have, in lots in said town of Marion; and he is hereby empowered to give bonds for deeds, and deeds in fee simple, absolute for said lots, which shall be deemed good and valid in law, to all intents and purposes, when witnessed by the seal of the board of commissioners of said county, and acknowledged by at least two of the county commissioners.

SEC. 5. The county agent shall in no case dispose of any lot but such as have been previously appraised and submitted to him for sale by said commissioners, and shall sell no lot for less than the appraised value.

*Approved, January 13, 1841.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41,*  
p. 47.

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AN ACT TO ESTABLISH THE COUNTY SEAT OF DELAWARE COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That at the next general election in the county of Delaware, the qualified voters of said county shall be allowed to vote for the location of the seat of justice of said county.

SEC. 2. Every voter may vote for any point as the seat of justice, and the votes shall be returned to the office of the clerk of the board of commissioners of Dubuque county, and

the result declared as in other cases; and the clerk, thereupon, shall cause to be entered upon the record of said board the whole number of votes given for each place named.

SEC. 3. If, at said election, any one point shall receive a majority of votes over all the other points, it shall be declared the seat of justice of said county.

SEC. 4. If no one point receives a majority of all the votes cast at said election, then there shall be a second election held on the third Monday of August, eighteen hundred and forty-one, at which second election the two points receiving the highest number of votes at the first election shall be voted for, and none others; and the point for which the highest number of votes is cast shall be declared the seat of justice of said county.

SEC. 5. As soon as the votes cast at the first election are counted agreeably to law, if it shall appear that no one point has received a majority of all the votes cast at said first election, it shall be the duty of the clerk of the board of county commissioners to write three notices for each election precinct in said county, which notices shall set forth the two places receiving the highest number of votes at the first election; and which places are to be voted for at the second election; and also, the day on which said election is to be held; which notices shall be delivered to the sheriff of said county, and shall be posted up by him in the following manner, to wit: one notice at the place of voting in each precinct, and two others in two of the most public places in each of the precincts, at least ten days before the term of holding said election.

SEC. 6. Said election shall be conducted in all respects agreeably to the laws regulating general elections.

*Approved, January 13, 1841.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41,*  
*p. 48.*

AN ACT TO LOCATE THE SEAT OF JUSTICE OF CLINTON COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That William Miller, of Cedar county, Andrew F. Russell, of Scott county, and William A. Warren, of Jackson county, be and they are hereby appointed commissioners to re-locate the seat of justice of Clinton county.

SEC. 2. It shall be the duty of said commissioners to meet at the house of Abraham Folcks, in Clear Creek precinct, in said county, on some day within six months from the date of this act, and proceed to locate said seat of justice as near the geographical center of said county as a good and suitable situation, convenient to wood and water, can be found, having reference to the welfare and convenience of the present and future population of said county.

SEC. 3. The commissioners aforesaid shall, before entering upon their duties as commissioners, take and subscribe, before some justice of the peace, the following oath or affirmation, to wit: "We, the commissioners to locate the seat of justice of Clinton county, do solemnly swear (or affirm, as the case may be) that we will perform the duties imposed upon us by our appointment, honestly and faithfully, according to the best of our abilities, and according to the law relative to locating said seat of justice; and we do further swear, that we are not directly or indirectly interested in said location, and that in locating said seat of justice we will act without the slightest partiality towards any person or persons, without bias from fear, favor or recompense, or the hope of any gain or advantage to ourselves in any respect whatever."

SEC. 4. That so soon as said commissioners shall have determined upon the place where said seat of justice shall be located, it shall be the duty of said commissioners to name it by such name as they may think proper, and agreeable to the wishes of the citizens of said county; and they shall forthwith

commit their proceedings to writing, and sign the same, and file them in the office of the clerk of the District Court of said county, whose duty it shall be to record the same in the record book.

SEC. 5. That said commissioners shall each receive three dollars per day for the time they are actually employed in the location of the said seat of justice, not exceeding ten days, and three dollars for every twenty-five miles of travel going to and returning from the aforesaid place of meeting to their place of residence; said compensation to be paid out of the treasury of Clinton county, by order from the board of county commissioners.

SEC. 6. That in case of vacancy by death, or otherwise, in said board of commissioners for locating the seat of justice, it shall be the duty of the county commissioners in the county where such vacancy shall occur to appoint some suitable person to fill said vacancy.

SEC. 7. That the site selected under this act shall be the seat of justice for Clinton county from the time of such selection: *Provided*, That until the judge of the District Court of said county is notified, in writing, by the county commissioners, that suitable buildings are erected at said seat of justice for the accommodation of the court and suitors, the town of Camanche shall remain the temporary seat of justice.

SEC. 8. That the said judge, when notified as above, shall direct the sheriff of said county to give notice to the citizens of said county that the next term of said court will be held at the seat of justice herein directed to be located.

SEC. 9. All writs and process, of whatever kind, shall, upon such notice being given, be returnable to said court at such place; and everything pertaining to business in said court shall proceed and remain as good as though said court were not removed.

*Approved, January 14, 1841.*

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 56.

**AN ACT TO LOCATE THE COUNTY SEAT OF LEE COUNTY.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That on the second Monday of March next, the qualified voters of Lee county shall be allowed to vote for the location of the seat of justice of said county.

SEC. 2. Every voter may vote for any point as the seat of justice; and if, at said election, any one point shall receive a majority of votes over all the other points, it shall be declared the seat of justice of said county.

SEC. 3. If no one point receives a majority of all the votes cast at said election, then there shall be a second election held on the third Monday in April next, at which second election the two points receiving the highest number of votes at the first election shall be voted for, and none other; and the point for which the highest number of votes is cast, shall be declared the seat of justice of said county.

SEC. 4. That the same persons who served as judges or managers at the several precincts in said county, at the last general election, shall be judges or managers of the elections directed by this act; and in case of failure of any of them to attend at the hour for opening the polls, their places shall be supplied in the manner directed by the law regulating general elections; and the said judges of each precinct shall appoint two suitable persons, having the qualifications of electors, to act as clerks of said elections; and the said judges and clerks, before entering upon the discharge of their duties, shall take an oath before some person authorized to administer the same, honestly, faithfully and impartially to perform the duties required of them by this act; and the person administering said oaths or affirmations shall cause an entry thereof to be made and subscribed by him, and prefixed to the poll book, which shall be returned to the clerk of the District Court as hereafter provided.

SEC. 5. That the said judges, or any one of them, shall

have power, and on any person offering to vote being challenged by any elector, who has voted at such election or elections, are hereby required, to administer an oath to such persons offering to vote, true answers to make to such questions touching his qualifications as a voter as shall be propounded to him; and shall thereupon examine such person, as to his right to vote; and such judges shall not permit any person to vote at said election or elections, who is not qualified according to the provisions of this act.

SEC. 6. That the first election shall be conducted as follows, to wit: That each of the clerks of said election shall keep a separate poll-book or list of voters, and shall enter on his poll-book the name of every person voting at his precinct, numbering them from one, progressively, in the order in which they shall vote, with the proper number set opposite each name; and the judges of said election are hereby required to number the vote or ballot (on the back thereof) of each and every voter, with the same number that stands opposite the name of such voter on the clerk's poll-book, and the ballot so given and numbered shall be deposited in a box, and shall be safely kept by the judges of said election until disposed of as hereinafter directed. The polls shall be opened at each precinct, between the hours of nine and ten o'clock, A. M., and shall be closed at 6 o'clock, P. M., of the same day. When closing the polls the judges shall proceed openly and in the presence of such electors as may choose to attend, to count the ballots so given in, and the clerks shall severally keep a tally of the votes so counted out, designating the name of the town for which said votes or ballots may have been given; and when they shall all have been counted, they shall be added up and the aggregate for each town set down in figures and in words at full length; and the said judges and clerks shall certify that the same is a true statement of the votes polled at such precinct, and shall return the said ballots into the box from which they were taken and seal up said box; and the said judges shall return said box con-

taining the ballots so sealed up, and shall also return one of the poll-books, of each precinct to the clerk of the district court of Lee county, by three o'clock, P. M. of the fourth day after said election, on which said fourth day after said election the judges of the several precincts shall meet at the office of the clerk of said court, and shall, in the presence of each other and of the clerk of said district court, proceed to examine the returns from each precinct, and if a majority of said judges are satisfied that any one point voted for shall have received a majority of the legal votes polled at said first election, then they shall declare said point the seat of justice of said county, and the clerk of the district court shall so enter the same on the minutes of said court.

SEC. 7. But if, on such examination, it shall appear that no one point has received a majority of all the votes cast at said first election, it shall be the duty of the clerk of the district court to write three notices for every election precinct in said county, which notices shall set forth the two places receiving the highest number of votes at the first election, and which places are to be voted for at the second election, and also the day on which said second election is to be held, which notices shall be delivered to the sheriff of said county, and by him posted up in the following manner, to wit: One notice at the place of voting in each precinct, and the two others in two of the most public places in each precinct, at least ten days before the time of holding said election.

SEC. 8. That the second election shall be conducted, and the result made known and declared, in the same manner as provided for in the sixth section of this act providing for the holding of the first election.

SEC. 9. That the ballots and poll-books returned from the several precincts, shall be safely kept by the clerk of the district court in his office, for twenty days from the day of holding either of said elections, at which time he shall destroy said ballots, unless within that time said election shall be contested in the manner hereafter provided.

SEC. 10. That any five electors who shall have voted at either of said elections, may, within twenty days after said elections, notify said clerk of the district court in writing, that they contest said election; and if they shall within said twenty days enter into bond with sufficient security to be approved of by said clerk, payable to said clerk in the penal sum of three hundred dollars, conditioned to prosecute said contest with effect, or failing therein to pay all such costs as may accrue in the premises, the said clerk shall immediately notify the judge of said district court, that said election is contested; and the said judge on receiving such notice, shall appoint a time and place in Lee county, for enquiring into and deciding the said contested election; and notice of such time and place shall be given by said clerk, by nine written notices, one notice to be posted up at the place of holding elections in each precinct in said county, fifteen days prior to the time so appointed for the trial of said contested elections, and said clerk shall issue subpoenas for all such witnesses as said person contesting said elections or any three voters of said county may require, returnable to the time and place so as aforesaid appointed for said trial.

SEC. 11. That the clerk of said district court, and the sheriff of Lee county, shall attend the judge of said court at the time and place so appointed, and the clerk of said court shall deliver to the judge thereof the ballots and poll books returned to him as above provided; and said judge shall proceed to enquire into the legality of said elections, and may examine said ballots and poll books, and receive the testimony of all such witnesses as may be produced before him, and shall purge the said polls of all illegal votes that may have been received; and shall decide the said contested elections in favor of the town that may have received the greatest number of legal votes at said election, and the clerk of said district court shall make an entry of the decision of said judge on the minutes of said court as a judgment thereof.

SEC. 12. The town which shall have received the greatest

number of legal votes shall thenceforth be the seat of justice of Lee county.

SEC. 13. That if any person shall vote at either of said elections without being qualified, as above required, or who shall vote more than once at either of said elections, or who shall, for the purpose of voting at either of said elections, swear falsely touching his qualifications as a voter, shall be fined in a sum not less than twenty nor more than one hundred dollars, one half thereof to the use of the county, and the other half to any one who shall prosecute for the same, and shall be further liable to an indictment, and if found guilty of swearing falsely, shall suffer all the pains and penalties of wilful and corrupt perjury.

SEC. 14. That if either the judge or clerk of either of said elections shall be guilty of any wilful violation of any duty required of them by this act and shall thereof be convicted on indictment, such persons so convicted shall be fined in any sum not less than five hundred dollars, nor more than one thousand dollars, or imprisoned not more than twelve months, at the discretion of the jury trying the same.

SEC. 15. That nothing contained herein shall alter or repeal the provisions of an act passed at the present session, entitled "An act to designate and fix the place of holding the several courts for the county of Lee."

*Approved, January 15, 1841.*

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 62.

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AN ACT TO PROVIDE FOR ASSESSING AND COLLECTING COUNTY REVENUE.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That for the purpose of raising a revenue for county purposes, the board of county commissioners of each county of this Territory, shall, each year, levy a tax, not to exceed five mills on the dollar, on all

lands, town lots, and out lots, not exempt from taxation by any law of the United States, now in force; and on all personal property, with the exception of one hundred dollars worth of household furniture to each householder, and excepting libraries, agricultural implements, tools of mechanics, sheep, school lands, or property of any kind, belonging or appertaining to schools, the property of all literary or scientific institutions, together with public buildings and other property belonging to the Territory; on each ferry license, or ferry kept by authority of law, not less than two, nor more than fifty dollars per annum; on each license for hawking wooden, brass, or any other kind of clocks, not less than one hundred nor more than three hundred dollars; and on each license to keep a grocery, not less than twenty-five nor more than one hundred dollars; and no tavern or inn-keeper shall be permitted to retail spirituous liquors without a grocery license.

SEC. 2. That the county commissioners shall annually, at their regular session in July, or so soon thereafter as the assessment roll is filed, levy a percentage on real and personal property as aforesaid, sufficient, when added to the amount that will probably be received by the county from other sources of revenue, to defray the current expenses of such county, and to liquidate its debts for the year; but such percentage shall not, in any case, exceed five mills on the dollar, as aforesaid: *Provided*, That the county commissioners of Dubuque county may, if they deem it expedient, levy a percentage not to exceed one cent on the dollar; and the commissioners, should they deem it necessary may annually levy a poll tax, not exceeding one dollar, nor less than fifty cents, on every white male inhabitant in their county, above twenty-one, and under fifty years of age. Any person indebted to his county for the assessment of a poll tax may have the privilege of paying the same by working on the public road in the precinct in which he resides, at the rate of one dollar per day; and if the person so indebted shall neglect or refuse to pay his poll tax either in money or work, then

and in that case the person so refusing or failing to pay his poll tax shall not hold any property free from execution for the payment of such poll tax.

SEC. 3. That at the time and place of holding the election for county commissioners, there shall be elected one assessor for each county, who shall be a qualified elector, and whose term of office shall be one year, and until his successor is duly elected and qualified.

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SEC. 4. If any assessor so elected under the provisions of this act, shall refuse to accept of such office, or fail to comply with the foregoing section, the clerk of the board of commissioners shall, upon such failure, issue a notice thereof to the board of commissioners, which shall be served by the sheriff upon said commissioners; and it shall be the duty of said commissioners, upon receiving notice thereof, to call a meeting forthwith, and appoint some suitable person to fill such vacancy; which assessor so appointed shall be qualified according to the foregoing section; and should any assessor die, or become unable, from bodily infirmity, or any other cause, to complete the assessment of his county, township, or district, according to the provisions of this act, upon information thereof to the clerk aforesaid, a like summons as above mentioned shall be by him issued, and the appointment and qualification thereupon made; and such last mentioned assessor shall demand and receive the assessment roll of his predecessor, or of the person in whose possession it may be, and proceed to complete the assessment of taxable property, according to the provisions of this act; and if the roll of his predecessor cannot be obtained, the clerk, on application, shall make out a new form.

SEC. 5. That whenever any assessor, elected or appointed, as aforesaid, shall deem it necessary, he may appoint a deputy assessor, to be approved of by the board of county commissioners,

\* \* \* \* \*

SEC. 6. Immediately after the election and qualification,

each assessor shall commence assessing all property subject to taxation, within his district or county, as the case may be, and shall deliver to the board of commissioners, on or before the first Monday in July thereafter, a full and complete assessment roll thereof, which roll shall exhibit the description, number of acres, and value per acre, and the description and value of the town lots, and all other property specifically chargeable with tax for county purposes. \* \* \* \*

The value of the land shall be determined as described in this act; and in estimating the value of town lots, the assessor shall take to his assistance two discreet persons; and should any person feel aggrieved by the value which may be affixed upon his land by the assessor, or by the value at which the appraisers estimated his town lots, he may produce evidence before the board of commissioners, and if they think the value too high, they shall order the clerk to alter it accordingly.

\* \* \* \* \*

SEC. 14. The board of commissioners shall allow to the assessors in their respective counties, such compensation as to them shall seem just and reasonable, to be paid out of the treasury of the proper county on the order of said board, as other moneys are paid. \* \* \* \*

SEC. 15. The board of commissioners, for the purpose of enabling the clerk to calculate and carry out the amount of tax on all property returned by the assessor, shall, at their session in July in each year, determine the rates of taxation upon the several subjects allowed to be taxed for county revenue under the restrictions of this act, and enter such determination on record, which shall govern the clerk in making the said calculations.

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SEC. 18. That the sheriffs of the several counties shall collect the county revenue, and pay over to the county treasurer, monthly, all such sums collected, and take his receipt therefore, which receipt shall be a sufficient voucher for the board of commissioners to cancel the amount of such assess-

ment roll standing charged against said collector on the books of said commissioners.

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SEC. 51. "An act providing for assessing and collecting county revenue," approved January 24, 1839, and an act to amend the same, approved January 14th, 1840, be and the same are hereby repealed.

*Approved, January 15, 1841.*

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 65.

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AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO RE-Locate THE COUNTY SEAT OF JACKSON COUNTY," APPROVED JULY 24, 1840.

SECITON 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That Jesse Yount, of the county of Dubuque, Eli Goddard, of the county of Clinton, and Thomas Denson, of the county of Jones, be and they are hereby authorized and appointed commissioners to re-locate the county seat of Jackson county, according to the provisions of an act entitled "An act to re-locate the county seat of Jackson county," approved July twenty-fourth, eighteen hundred and forty.

SEC. 2. The commissioners aforesaid, or a majority of them, shall meet at the town of Bellview, on the second Monday of April next, to discharge the duties required in the act to which this is amendatory: *Provided*, That if the said commissioners do not meet at the time appointed, it shall be the duty of the sheriff of said county to notify said commissioners of the day when it shall be lawful for them to meet to discharge the duties aforesaid.

SEC. 3. So soon as said commissioners shall have determined upon the place where said seat of justice shall be located, they shall name said seat of justice by such name as they may think proper, and forthwith commit their proceedings to

writing, giving a full description of the numbers of the quarter section upon which they have made said location, and sign the same, and file them in the office of the clerk of the board of county commissioners; whereupon said clerk shall immediately make out and deliver to the sheriff of said county three written notices for each precinct, giving at least twenty days previous notice that there will be an election held at the different precincts in said county, for the purpose of selecting by vote the place, to be the permanent seat of justice of said county, giving a full description of the numbers of the lot of ground upon which said commissioners have made said location, and also the name of said place, at which time and place there shall be polls opened in an ordinary manner, and the present seat of justice and the place located as aforesaid shall be voted for; and the place receiving the largest number of legal votes shall be the permanent seat of justice of said county.

SEC. 4. At said election all persons who were residents of said county at the passage of this act, and are still residents, and who shall otherwise be legal voters according to the laws of this Territory, shall be allowed to vote.

SEC. 5. The manner of voting shall be by the electors approaching the bar, and mentioning by name the place for which he wishes to vote, which shall be recorded by the clerks of the election opposite the name of the person presenting the same; and in all other respects the election shall be conducted as the elections in this Territory.

SEC. 6. It shall be the duty of the clerk of the board of county commissioners, on opening the poll books and determining which place has the greatest number of legal votes, to make a record of the same, and to notify the board of county commissioners thereof, whose duty it shall be to proceed forthwith to lay out (provided the place above located by said commissioners be selected) one quarter section of land, or so much thereof as they may think proper, into lots, out lots, streets, alleys and squares, and to determine upon the lots or squares upon which the public buildings shall be erected:

*Provided, however,* That said board of county commissioners shall, before surveying said seat of justice, borrow a sum of money sufficient to enter said quarter section of land according to an act of Congress, approved May twenty-sixth, eighteen hundred and twenty-four, entitled "An act granting to counties or parishes of each State and Territory of the United States in which public lands are situated, the right of pre-emption to one quarter section of land for seats of justice within the same;" and to pay interest for said money not exceeding forty per cent.; and forthwith enter said quarter section.

SEC. 7. It shall be the duty of said county commissioners, within sixty days after surveying said seat of justice, to proceed to sell, at public auction, for cash, or on such terms as they may think proper, a sufficient number of lots in said seat of justice, to build public buildings for the county, and refund the money borrowed to enter the same, together with the interest thereon: *Provided*, The county and district courts shall be held at Bellview until said public building be erected.

SEC. 8. That it shall be the duty of said county commissioners to give notice of said sale, by publishing the same in the two nearest newspapers, and also by posting up written notices in four of the most public places in the county, at least forty days before the sale.

SEC. 9. That the said board of county commissioners are hereby authorized and directed to pay Abner Beard, one of the commissioners appointed under the act to which this is amendatory, a reasonable compensation for his services in repairing to Bellview to perform the duties assigned him in said act.

*Approved*, January 15, 1841.

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 83.

**AN ACT TO PROVIDE FOR THE ELECTION OF ADDITIONAL JUSTICES OF THE PEACE.**

**SECTION 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be an election held on the first Monday of March next, for the election of additional justice of the peace and constable in the following precincts, to wit: at the town of Montrose and Keokuck, in the county of Lee; at the town of Jefferson, in the county of Henry; at the town of Salem, in the county of Henry, and the town of Philadelphia, in the county of Van Buren, who shall hold their offices until the annual election of eighteen hundred and forty-two.

**SEC. 2.** Said election shall be conducted in all respects according to the law regulating elections.

**SEC. 3.** It shall be the duty of the clerks of the board of commissioners of each of the aforesaid counties, to give twenty days notice of such election, time, place, &c. by causing notices to be posted up at three of the most public places in each of said precincts.

*Approved, January 15, 1841.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41, p. 86.*

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**AN ACT TO AMEND AN ACT PROVIDING FOR THE ORGANIZATION OF TOWNSHIPS.**

**SECTION 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of county commissioners in each county not yet divided into townships, or in which there has been no election authorizing the organization of townships, shall, as soon as they are of opinion that the people of the county desire township organization, proceed to divide the county into townships, and discharge the duties required by "An act to provide for the organization of townships," commencing with the fifth section of this act.

SEC. 2. That when a county is divided into townships, the county commissioners shall cause a notice to be put up at the place for holding elections in each township, containing the name and description of the boundary of such township; and in such counties as have one newspaper published therein, they shall cause the names and the description of the boundaries of the township in such county to be published in one such paper for two weeks.

SEC. 3. That so much of said act as contravenes the provisions of this act, are hereby seperceded.

*Approved, January 15, 1841.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41,*  
p. 92.

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**AN ACT TO DISTRICT THE COUNTY OF CEDAR INTO COUNTY  
COMMISSIONERS' DISTRICTS.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That said county shall be divided into three county commissioners' districts, as follows, to wit: that portion of the county of Cedar included in township seventy-nine, shall be known as district number one; and all that portion of said county that is included in townships eighty, and the south half of eighty-one, shall be known as district number two; and that portion of said county which is included in the north half of township eighty-one and township eighty-two, shall be known as district number three.

SEC. 2. *And be it further enacted,* That at the next general election there shall be elected from district number one, one county commissioner; and ever thereafter, annually, there shall be elected from each district one county commissioner, alternately, according to provisions of the law regulating general elections.

*Approved, January 15, 1841.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41,*  
p. 95.

**AN ACT FOR THE RELIEF OF THE SHERIFF OF JEFFERSON COUNTY.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the sheriff of Jefferson county may have until the first Monday of July next to make final settlement with the commissioners of said county, for the revenue due said county for the year eighteen hundred and forty.

SEC. 2. That nothing in this act shall be so construed as to authorize the said sheriff to withhold from said commissioners any money collected by him and belonging to said county.

*Approved, January 15, 1841.*

—*Reprinted from Laws of the Territory of Iowa, 1840-41, p. 96.*

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**AN ACT TO LEVY A TERRITORIAL TAX.**

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall hereafter be levied and collected on all taxable property within this Territory, one quarter mill's per cent. on the value thereof, for Territory purposes.

SEC. 2. That it is hereby made the duty of the county commissioners of each and every organized county in this Territory, when they levy the county tax, to levy in addition thereto the above amount for Territorial purposes, which shall be collected in the same manner and at the same time that the county tax is collected, and by the same collector.

SEC. 3. That when said tax is collected it is hereby made the duty of the collectors of said taxes to pay the same into the county treasury of his county, there to remain subject to the order of the territorial treasurer; and it is hereby made the duty of the said collectors to take duplicate receipts for the same, one of which they shall transmit by mail or other safe

conveyance to the territorial treasurer, and the other they shall keep as a voucher for their own safety.

SEC. 4. That so much of an act entitled "An act to provide for a territorial revenue," approved January twenty-five, eighteen hundred and thirty-nine, as relates to the five per cent. to be set apart by the said county commissioners as a debt due from said county to the Territory, is hereby repealed: *Provided*, That nothing in this act shall be so construed as to relinquish to said counties any portion of said five per cent. which has not been paid into said territorial treasury.

SEC. 5. The county commissioners of the several counties are hereby required to forward to the auditor of public accounts a correct copy of the assessment roll at as early a period as practicable after the original may be returned.

SEC. 6. This act to take effect and be in force from and after its passage.

*Approved*, January 15, 1841.

—Reprinted from *Laws of the Territory of Iowa, 1840-41*,  
p. 100.



## NUMBER XX.

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The documentary material presented in this number is illustrative of the development of Local Government as reflected in the Laws of the Territory of Iowa “enacted at the session of the Legislature which commenced on the first Monday of December, A. D., 1841.”

B. F. S.



**AN ACT DEFINING A LAWFUL FENCE, AND PROVIDING AGAINST  
TRESPASSING ANIMALS.**

**SECTION 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That if any horse, mare, mule or ass, or any cattle, hogs, sheep or goats, shall break into any ground being enclosed with a strong worm fence, sufficiently staked and ridered, or locked at each joint, five feet in height, or with strong post and rails, or post and pailings five feet high, or with a hedge two feet high upon a ditch three feet deep and three feet wide, or instead of such hedge a rail fence three feet high, or with a sod fence three feet high, with a ditch on each side three feet wide and three feet deep, or a stone fence four feet high, or with a fence five feet six inches high, composed of strong timber, put up in any other proper manner not herein particularly expressed, and the owner or occupier of such enclosure shall consider him or herself aggrieved thereby, the person so injured may apply to the fence viewers of the township, who shall forthwith repair to the place where such injury was done, and then diligently examine such fence.

**SEC. 2.** That if, in the opinion of the fence viewers, the fence over or through which the trespassing animal entered, is of such height and strength as is defined in the first section of this act, and in all other respects such a fence as good husbandmen generally keep, they shall proceed from view and enquiry to assess the damages sustained by such applicant, from such trespassing animal or animals; which assessment, including the sum due the fence viewers for their services by this act allowed, the said fence viewers or a majority of them, shall, under their hands and seals, certify and deliver to the person sustaining the damages; and if the owner or possessor of such trespassing animal or animals aforesaid, refuses to pay the said damages on demand, the person injured may deliver said certificate to any justice of the peace within the township, who shall issue process thereon as in other cases of damages;

and after trial had, shall enter up judgment and issue execution thereon agreeably to law.

SEC. 3. That if it shall appear to such justice, that damage hath been done the plaintiff, he shall give judgment for the amount thereof, with costs to suit; and shall issue execution thereon, in the same manner and under like regulations as is by law directed, in other cases tried before a justice of the peace; but if it shall appear that the plaintiff hath not sustained any damage, the justice shall give judgment against him, and award execution thereon for the cost of suit; Provided, nevertheless, that either party shall have the privilege of an appeal to the District Court, as in other causes tried before a justice of the peace.

SEC. 4. That the sum of fifty cents per day, shall be allowed to each of the fence viewers, for their services rendered under this act; and if any fence viewer, directed to view and report the situation of any fence as aforesaid, shall fail or refuse to do the same, not having reasonable excuse for such failure or refusal, such person shall be subject to a fine not exceeding two dollars, at the discretion of the justice of the peace, for the use of the township, or county, where the townships are not organized.

SEC. 5. If there be no fence viewers elected or qualified, the person injured may apply to any justice of the peace within his county, who shall appoint two householders, being citizens of the county, to examine said fence, and do all the duties required by the fence viewers.

SEC. 6. This act to take effect and be in force, from and after the first day of May next.

Approved, January 21, 1842.

—Reprinted from *Laws of the Territory of Iowa, 1841-42*,  
p. 11.

AN ACT TO LEGALIZE CERTAIN ACTS OF THE BOARD OF COMMISSIONERS OF CLINTON COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all sales of town lots, by the Board of Commissioners of Clinton county, in the town of Vandenburg, the seat of justice of said county, which were made before the plat of said town was recorded, are hereby legalized and made obligatory on the part of said board to fulfil and perform, according to the terms of the contracts made with the purchasers; and said commissioners are hereby relieved from all penalties which they may have incurred, by reason of said sales, before the plat of said town was recorded.

Approved, January 24, 1842.

—Reprinted from *Laws of the Territory of Iowa, 1841-42*,  
p. 13.

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AN ACT TO DISTRICT THE COUNTY OF JACKSON INTO THREE COMMISSIONERS' DISTRICTS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county of Jackson shall be, and is hereby divided into three districts, for the election of county commissioners.

SEC. 2. That all that part of said county, lying west of range line dividing ranges two and three, east of the fifth principal meridian, shall compose the first district.

SEC. 3. All that part of said county, lying north of the township line dividing townships eighty-five and eighty-six, and east of range line dividing ranges two and three east, shall compose the second district.

SEC. 4. All that part of said county, lying south of township line dividing townships eighty-five and eighty-six, and east of range line, dividing ranges two and three east, shall compose the third district.

SEC. 5. At the next annual election, there shall be elected by the qualified voters of said county, one county commissioner from each of said districts, who shall be residents of their respective districts; the person elected from the first district shall serve one year, and the one elected from the second district shall serve two years, and the person elected from the third district shall serve three years; and each commissioner elected according to the provisions of this act, shall continue in office until his successor is elected and qualified.

SEC. 6. At the annual election next preceding the expiration of the time for which any of said commissioners were elected, and every three years thereafter, there shall be elected one commissioner, resident in the district in which the one resides, whose place he is intended to supply, who shall serve three years; in case of vacancy, a commissioner shall be elected from the district in which such vacancy may happen, whose term of service shall be for the unexpired term of his predecessor.

SEC. 7. If any one of said commissioners, elected as aforesaid, shall remove without the limits of the district in which he was elected, it shall be deemed and taken to be a resignation of his office.

SEC. 8. All acts and parts of acts that contravene the provisions of this act, are hereby repealed.

Approved, January 28, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
p. 20.

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AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF VAN BUREN COUNTY, TO GRANT A LICENSE TO JESSE WRIGHT AND HENRY BATEMAN TO KEEP A FERRY ACROSS THE DES MOINES RIVER AT WATERTOWN.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa, That the County Commissioners of Van Buren county, be and they are hereby*

authorized and directed to grant a license to Jesse Wright and Henry Bateman, of said county, for the term of five years, to keep a ferry across the Des Moines river opposite Watertown; *Provided*, said Wright and Bateman shall in all respects be subject to the law regulating ferries in this Territory.

SEC. 2. This act shall not be so construed as to prevent L. P. Harris, his heirs or assigns, from obtaining a license to keep a ferry at any subsequent time.

SEC. 3. This act shall be in force from and after its passage.

Approved, January 28, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
*p. 21.*

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AN ACT AMENDING AN ACT DEFINING THE DUTIES OF SUPERVISORS OF ROADS AND HIGHWAYS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That upon the trial of any action against any person or persons liable to work on the public roads, for the recovery of any penalty, fine or forfeiture, for a refusal or neglect to work on a public road, or for any other delinquency, the supervisor of the road, shall be a competent witness to prove the warning or notice given such person, and any other fact or facts necessary to establish such delinquency; any thing in any former act to the contrary notwithstanding.

Approved, February 2, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
*p. 26.*

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AN ACT TO AMEND AN ACT ENTITLED “AN ACT FOR OPENING AND REGULATING ROADS AND HIGHWAYS,” APPROVED JANUARY 17, 1840.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all applications for laying out or re-locating any county road, shall be by peti-

tion to the commissioners of the county, signed by at least twenty legal voters, residing within three miles of where said road is to be laid out or re-located; which petition shall designate the place of beginning, the intermediate points, and the place of termination of said road; and said petition shall in all respects be prepared and acted upon as prescribed in the third section of the act to which this is amendatory.

SEC. 2. That whenever application shall be made to the board of county commissioners, by the petition of less than twenty legal voters, for the re-viewing, establishing, or re-location of any county road, it shall be optional with said commissioners to grant the same, or not, at their discretion; and in all cases when application is made for the establishment of a road, and the same can with convenience be laid on a township or section line, the commissioners may, at their discretion, order the establishment of such road or roads without actual survey, but in no case shall the prayer of such petitioners be granted where there is a greater number remonstrating against the re-location or establishment of any such road or roads.

SEC. 3. When a bridge shall be necessary over any creek, river, pond, lake, slough, or place, where the supervisor or supervisors, with his or their hands, in whose district or districts the same may be, cannot conveniently make it, the board of county commissioners of the county wherein such creek, river, pond, lake, slough, or place, shall be, may at their discretion, and they are hereby empowered to contract and agree for the building, keeping and repairing of such bridge, and to pay for the same out of any money in the county treasury not otherwise specially appropriated.

SEC. 4. That all parts of the act to which this is amendatory, contravening this act, be and the same are hereby repealed.

Approved, February 2, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
*p. 27.*

AN ACT TO AMEND AN ACT ORGANIZING A BOARD OF COUNTY  
COMMISSIONERS IN EACH COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the number of days occupied at the regular sessions of the boards of county commissioners, in the several counties within this Territory, shall not exceed eighteen in any one year; not more than six days at their session in July, and not more than four days at each other session required to be held by the act to which this is an amendment: *Provided*, however, That when the public interest requires it, said commissioners shall hold extra sessions, which shall not exceed six days in each year.

SEC. 2. That the statement of the receipts and expenditures of the county, required to be published by the tenth section of the act to which this amendatory, shall contain a full and particular description of each item, from whom and on what account received, and to whom and on what account expended, together with an accurate statement of the actual condition of the finances of the county, at the end of each fiscal year, including all debts and liabilities of every description, and the assets and other means to discharge the same.

SEC. 3. That the county commissioners shall receive two dollars per day for every day necessarily employed under the provisions of law.

SEC. 4. That upon the taking effect of this act, the commissioner's clerk, in each of the counties in this Territory, is hereby required to execute a bond, with two or more securities, to the acceptance of the board of county commissioners of the proper county, in the penal sum of two thousand dollars, payable to the Territory of Iowa, and conditioned for the faithful discharge of the duties of his office, and shall also take and subscribe an oath or affirmation to be endorsed on said bond, that he will faithfully and impartially discharge the duties of his office, to the best of his skill and ability; which bond, so endorsed, shall be deposited with the county treasurer, and be by him carefully preserved.

SEC. 5. That suit may be instituted on such bond against the commissioner's clerk and his securities, in the name of the Territory of Iowa; and for the use of the Territory, county, or any party or person injured by the misconduct in office of said clerk, or by the omission of any duty required of him by law.

SEC. 6. That the county commissioner's clerk shall receive as a compensation for his services the following fees: for recording the proceedings of the county commissioners, or other record, and entering the accounts necessary to be kept in his office, for every one hundred words, ten cents; for making calculations and carrying out the amount of tax on assessment roll, two dollars per day while necessarily employed; for every order on the county treasurer, five cents; for making out abstracts of the assessment roll, and certifying the same as required by law, for every sheet of one hundred words, eight cents; and for every other service required of him by law, the county commissioners shall allow him two dollars per day, and no more.

SEC. 7. That the seventh section of said act be and the same is hereby repealed.

SEC. 8. The clerk of the board of commissioners for each county, shall, on or before the tenth day of December in each year, certify under his hand, and transmit to the auditor of public accounts, by mail, an abstract of the aggregate valuation of the taxable property of the county, as taken from the corrected valuation of the assessment rolls for that year, as corrected and equalized by the commissioners.

SEC. 9. This act to take effect and be in force from and after the first Monday in April next.

Approved, February 8, 1842.

—Reprinted from *Laws of the Territory of Iowa, 1841-42*,  
p. 29.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN RELATION TO THE SAFE CUSTODY OF PERSONS, ARRESTED FOR CRIMES AND MISDEMEANORS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of commissioners of any county, from which a prisoner may be transferred under the provisions of the act to which this is amendatory, shall pay the county to which such prisoner may be transferred, the sum of two dollars per month for each prisoner during his confinement, for the use of the jail of such county.

Approved, February 10, 1842.

—Reprinted from *Laws of the Territory of Iowa, 1841-42*, p. 33.

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AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF DELAWARE COUNTY, TO PAY WILLIAM SMITH, SENR., WILLIAM JONES, AND THOMAS DENSON, FOR THEIR SERVICES AS COMMISSIONERS TO LOCATE THE COUNTY SEAT OF SAID COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That William Smith, senr., of Dubuque county, William Jones, of Jackson county, and Thomas Denson, of Jones county, be and they are hereby allowed the sum of three dollars each per day, for their services as commissioners, in locating the county seat of Delaware county, agreeably to an act entitled "An act to amend an act entitled 'an act to provide for the organization of the county of Delaware and to locate the county seat thereof,'" approved July 24, 1840.

SEC. 2. That the county commissioners of said county are hereby required to pay the same out of any money in the county treasury of said county, not otherwise appropriated.

Approved, February 10, 1842.

—Reprinted from *Laws of the Territory of Iowa, 1841-42*, p. 37.

## AN ACT FOR THE RELIEF OF THE POOR.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That any person or persons, other than those hereinafter provided for, residing one year in any township in this Territory, without being warned by the overseers of the poor for said township, to depart the same or three years after being once so warned, without being again warned as aforesaid, shall be considered as having gained a legal residence in such township; every indented servant or apprentice legally brought into this Territory, shall obtain a legal settlement in the township where such servant or apprentice first served his master or mistress three years; and every married woman during coverture, and after her husband's death, shall be considered legally settled in the place where he was last legally settled; but if he shall have, or shall have had, no known legal settlement, then she shall be considered as settled in the place where she was last legally settled before marriage.

SEC. 2. That nothing in this act shall be so construed, as to enable any black or mulatto person, to gain a legal settlement in this Territory.

SEC. 3. That the provisions of this first section of this act, shall not be so construed as to exclude any person from voting at elections who would otherwise by the laws of this Territory be entitled to vote.

SEC. 4. That the overseers of the poor, upon receiving information that any person has come within the limits of their township to reside, who will be likely to become a township charge, shall issue their warrant or order to any constable of the township, commanding him forthwith to warn such poor person to depart the township, by reading such warrant or order of the overseers of the poor, in his or her presence, and hearing or by leaving an attested copy thereof, at his or her last place of residence; and it shall be the duty of such constable receiving such warrant or order, to make immediate service thereof in the manner above directed, and to certify

on the back of such warrant, that he read the same in the presence or hearing of the person therein named to depart the township, or left an attested copy thereof at his or her last place of residence, as the case may be; which warrant the said constable shall immediately lodge with the clerk of said township, who shall record the same, and the certificate of the constable endorsed thereon within three days thereafter, in the book containing the records of the township.

SEC. 5. That upon complaint being made, or information given to the trustees of the township in any county having a county poor house, that any inhabitant of such township having a legal settlement therein, is in a suffering condition and requires public assistance or support, said trustees shall inquire into the condition and necessities of such person, and if satisfied that such person ought to be relieved at public expense, they shall make out an order to the directors of the poor-house, to receive and provide for such person, and shall accompany said order with the statement required by the act, to authorize the establishment of poor-houses.

SEC. 6. That when the overseers of the poor of any township in any county, having no poor-house, shall be satisfied that any person having legal residence in such township, is in a suffering condition, and ought to be relieved at the expense of such township, they may afford such relief at the expense of their township, as in their opinion the necessities of such person may require; and when more than temporary relief is required, the overseers shall set up a notification in three public places in their township, specifying some time and place at which they will attend for the purpose of receiving proposals for the maintainance of such pauper, which notification shall be posted up at least seven days before the day named therein, for receiving such proposals; and said overseers may contract with such person as they shall think suitable, to take charge of and maintain such pauper, and who will do the same on the most reasonable terms; but they shall not contract for the support of such pauper for a longer period than one year, at any one time.

SEC. 7. That if the trustees of any township, in any county having a poor-house, shall issue an order to the directors of such poor-house, requiring them to receive and provide for any pauper, and such pauper be rejected by said directors, under the provisions of the ninth section of the act to authorize the establishment of poor-houses, the overseers of the poor of such township, shall receive and provide for such pauper, according to the provisions of the preceding section of this act.

SEC. 8. That the overseers of the poor of each township, shall also afford temporary relief or support to any person within their township, and not having a legal settlement in the same, when such relief or support is needed.

SEC. 9. That if any person shall become chargeable in any township, in which he, she, or they have not gained a legal settlement, it shall be the duty of the overseers of the poor of such township, to cause such person or persons, so soon as their health will permit, to be removed to the township where he, she, or they were last legally settled, if such person or persons have any legal settlement in this Territory; and the overseers of the poor of such township, shall receive such pauper or paupers thus removed, and provide for his, her or their maintainance, in the manner pointed out by law; and the township in which such pauper or paupers have gained a legal settlement, and to which he, she or they are transported, shall pay said overseers of the township, which have thus supported and removed said pauper or paupers, all reasonable charges for such support and removal; and upon refusal, may be compelled by an action of debt, brought against the trustees of said township, before the District Court, of the county in which either or both of the townships may be situated; and the trustees of each and every township in this Territory, are hereby empowered to sustain said action, against the trustees of any other township in this Territory, for such supporting and removing their own paupers.

SEC. 10. That in case any person or persons, becoming

chargeable to any township as aforesaid, shall have no legal settlement within this Territory, the overseers of the poor in such township, if directed by the trustees, may remove such person or persons to the State or county where he, she or they have a legal settlement, unless such person or persons shall give sufficient security, to indemnify the said township.

SEC. 11. That the said overseers shall keep fair and accurate accounts of all expenses incurred, for the support of the poor within their respective townships, and make entries in a book of the names of the poor, and the time when each of them became chargeable, together with an account of their own services rendered; and on the first Monday of March annually, the said overseers shall meet the trustees of their respective townships, and exhibit said books and accounts, which the said trustees are hereby authorized to audit and allow, together with such compensation to the said overseers for their services, as shall, in the opinion of said trustees, be just and reasonable.

SEC. 12. That it shall be the duty of the trustees, in each and every township, to issue orders to the township treasurer, for any and all such demands as may accrue under the provisions of this act; and the said trustees may issue such orders on the treasury, in favor of the overseers of the poor, at any time during the year, when it shall be necessary to carry into effect any of the provisions of this act.

SEC. 13. That all gifts, grants, devises, and bequests, hereafter to be made of any houses, lands, tenements, rents, goods, chattels, sum or sums of money, to the poor of any township, by deed, gift, or by the last will and testament of any person or persons or otherwise, shall be good and valid in law; and shall convey such houses, lands, tenements, rents, goods, and chattels, to the trustees of such township, and their successors in office, for the use of their poor respectively, under such regulations as shall from time to time be made by law.

SEC. 14. That the act for the relief of the poor, approved

January 16, 1840, be and the same is hereby repealed: *Provided*, that in counties where townships are not, or may not be organized, the said act shall be in as full force as if this act had not passed.

Approved, February 16, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
p. 58.

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AN ACT TO AUTHORIZE THE APPOINTMENT OF A COUNTY  
AGENT, IN AND FOR THE COUNTY OF JOHNSON.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of commissioners shall, and it is hereby made their duty, at their next April term, and annually thereafter, to appoint some suitable person as Agent for Johnson county, who, when so appointed, shall enter into bond, with security, in the penal sum of five thousand dollars, to be approved of by the said board of commissioners; said bond to be made payable to the county of Johnson, and conditioned for the faithful discharge of all his duties as such agent. The bond so executed and approved, shall be filed with the clerk of said board, and a copy thereof duly certified by said clerk, shall be received as evidence in all courts within this Territory.

SEC. 2. That the said Agent, before entering upon the duties of his said office, shall take an oath faithfully to discharge his duties as such Agent, which oath shall be administered by some person legally authorized to administer the same.

SEC. 3. That it shall be the duty of said Agent, when so appointed and qualified, to take charge of all the unsold property in the county seat of said Johnson county, and also to demand and receive from the county Treasurer of said county, or any other person who may hold the same, all notes or bonds due said county for lots heretofore sold in said county seat.

SEC. 4. That it is hereby made the duty of the Treasurer of Johnson county to hand over to the said Agent, on demand, all moneys, notes, bonds, or other papers, in any way arising from, or belonging to, the sale or transfer of any lots in said county seat, made previous to such demand, and on the refusal of the said Treasurer, to hand over, as aforesaid, the moneys and effects, as aforesaid, it shall be the duty of the said Agent to commence suit forthwith against said Treasurer, on his bond, in any court having competent jurisdiction.

SEC. 5. It shall be the duty of said Agent, to collect, safely keep, and pay over all moneys arising from the sales of lots in the said county seat, as soon as the same may come into his hands, upon orders issued by the said board of commissioners, for work and labor done or to be done, or for materials furnished or to be furnished, upon contracts entered into, or that may hereafter be entered into by said board, or by said Agent, in relation to the erection of the public buildings necessary for said county.

SEC. 6. That the said agent is hereby authorized, under the direction of the said board of commissioners, to sell any lots or other property belonging to said county, upon such terms as the said board may direct, and not otherwise. The said agent shall make all notes or obligations, taken for the sale of the property belonging to said county, or in which said county may have an interest, payable to himself or his successor in office, shall sign all title bonds for deeds, and he or his successor in office shall make and execute all necessary deeds of conveyance to purchasers, and which said deeds, when so made and executed, by said agent or his successor in office, and acknowledged before some person legally authorized to take the same, shall be good and valid in law; and the said agent is hereby authorized to execute deeds, as aforesaid, upon all bonds heretofore given by the said board of commissioners, for lots heretofore sold in said county seat, which when made and acknowledged as aforesaid, shall operate as a good and legal conveyance.

SEC. 7. No person shall be eligible to the office of agent, who shall at the same time hold any other office in said county. The said board of county commissioners shall have the power, either upon complaint being made to them, or upon information derived in any other way, to remove the said agent, for any violation of, or negligence in the discharge of the duties of his office; and all vacancies in said office of agent, whether by removal or otherwise, shall be filled at any time by said board, in the same manner and under the same regulations as are provided in the first and second sections of this act.

SEC. 8. That the said agent shall observe, obey, and enforce all orders of the said board of commissioners, that may in any way relate to the sale or transfer of any property belonging to said county, or the erection of any public buildings for said county: *Provided*, said orders do not conflict with the provisions of this act: and it shall be the duty of said agent, upon the receipt of any monies belonging to said county to make duplicate receipts, one of which he shall deliver to the person paying the same, the other to be delivered within five days after the payment of the money to the clerk of said board, and by him filed in his office; which said receipts shall specify, particularly the amount of money received by said agent.

SEC. 9. That it shall be the duty of said agent, to report annually to the said board of commissioners, and as much oftener as he may be thereunto required by the said board, all his proceedings as such agent, and to deliver up his books and papers at any time, to be inspected by the said board of commissioners; the said board of commissioners shall allow to the said agent for his services as such agent, such compensation as they may deem reasonable and just, to be paid out of any moneys in the county treasury, not otherwise appropriated.

SEC. 10. That if the said agent, when so appointed and qualified, shall fail to discharge his duties as such agent,

according to the true intent and meaning of this act, he shall be liable to the party aggrieved, in an action upon his bond, before any court having competent jurisdiction, and may also be indicted and fined in any sum not exceeding one hundred dollars. This act to take effect and be in force from and after its passage.

Approved, February 16, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
*p. 62.*

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AN ACT MAKING THE CLERK OF THE BOARD OF COUNTY  
COMMISSIONERS, ELECTIVE BY THE PEOPLE.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That an election shall be held on the first Monday in August next, and on the first Monday in August, one thousand eight hundred and forty-four, and on the first Monday in August in every second year thereafter, in each county in this Territory, for a clerk of the board of county commissioners; and the clerks so elected, shall continue in office for two years, and until their successors shall be elected and qualified to office, and previous to their entering upon the duties of their respective offices, they shall take and subscribe an oath, and enter into bonds as is now required by law.

SEC. 2. The election provided for in this act, shall be held at the same places, and conducted in all respects as is now provided for by the law regulating general elections; and vacancies shall be filled in the same manner, provided said board may appoint a clerk pro tempore, whose term of service shall continue until a clerk shall be elected and qualified as provided for in this act.

SEC. 3. In all contested elections of the before mentioned officers, it shall be settled as provided for in the act in relation to contested elections.

SEC. 4. Every clerk who shall neglect or refuse to deliver

over to his successor in office, all papers, books and moneys, in his possession, as well as all and everything appertaining to his office, shall forfeit and pay any sum not exceeding five hundred dollars, nor less than twenty-five dollars, to be recovered as in action of debt, in any court having jurisdiction of the same.

SEC. 5. All acts and parts of acts, authorizing the county commissioners to appoint clerks, be and the same are hereby repealed.

Approved, February 16, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
p. 66.

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AN ACT AMENDATORY OF AN ACT TO REGULATE FERRIES,  
APPROVED DECEMBER 20, 1838.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the several boards of commissioners of the counties of this Territory, are hereby empowered and required to regulate and establish the rates of ferriage, on every ferry in their respective counties, kept by authority of a charter from a Legislative Assembly.

SEC. 2. That the duty of the clerk of said boards, in such cases, shall be the same as that prescribed in section six of the act to which this is amendatory; and the duty and liability of the keepers of such ferries shall be the same as that prescribed in said act, so far as the same may not be contradictory to those in the charter granted them.

Approved, February 16, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
p. 68.

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AN ACT TO AUTHORIZE THE ESTABLISHMENT OF POOR HOUSES.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county com-

missioners of each and every county within this Territory, shall be, and they are hereby authorized, to erect and establish poor houses within their respective counties, whenever in their opinion, such a measure will be proper and advantageous, and for that purpose it shall be lawful for said commissioners, to purchase such lot or tract of land, as they may deem necessary for the accommodation of the institution: *Provided*, that if the commissioners of any county shall think proper to purchase land, and erect a poor house under the provisions of this act, the expense of such purchase and erection, shall be defrayed by a tax levied on the general assessment roll for that express purpose, and collected and paid over in the same manner that other taxes are.

SEC. 2. That whenever the commissioners of any county shall have completed a poor house, for the reception of the poor, they shall immediately meet and appoint three judicious persons, residents of the county, who shall form a board of directors, to take charge of and manage the affairs of such poor house, agreeably to the provisions of this act; and the directors so appointed, shall, previous to their entering on the duties of their appointment, take an oath or affirmation, faithfully to discharge the duties of their office, and shall continue in office one year, and until their successors are appointed and qualified; and said board of directors shall appoint a clerk of their own body, whose duty shall be defined by the board; and if a vacancy shall happen in the board of directors, the county commissioners shall appoint some suitable person or persons to fill such vacancy, and who shall hold his or their office until the next annual meeting.

SEC. 3. That the board of directors, or a majority of them, shall form a quorum to transact business, and shall be a body corporate and politic, with perpetual succession, and shall be known by the name of the board of directors, of the poor house of \_\_\_\_\_ county, (naming the county,) and by that name they may sue and be sued, defend and be defended, in any court within this Territory; they may make all such con-

tracts and purchases as may be necessary for the institution, and may prescribe such rules and regulations, as they may think proper for the management and good government of the same; and for introducing the practice of sobriety, morality, and industry, among its inhabitants, they shall meet quarterly, at such place as they may agree upon, and the president may call a special meeting of the board as often as the interests of the institution require it.

SEC. 4. That the board of directors shall appoint a superintendent, who shall reside in some apartment of the poor house, or other building contiguous thereto, and shall receive such compensation for his services, perform such duties and give such security for their faithful performance, as the board shall judge proper; he shall be governed in all respects, by the rules and regulations of the board, and may be removed by them at pleasure; he may require all persons received into the poor houses, to perform such reasonable and moderate labor, as may be suited to their ages and bodily strength, the proceeds of which shall be appropriated to the use of the institution, in such manner as the board of directors may point out; the superintendent shall receive into the poor house, any person who shall produce to him such an order or voucher as is hereinafter required, and shall enter in a book to be provided by him, and kept for that purpose, the name and age as near as may be, of every person so received into the poor house, together with the day on which such person was received.

SEC. 5. That the board of directors shall cause the poor house to be visited, at least once in every month, by a member of their body; which member shall carefully examine the condition of the paupers, the manner in which they are fed, clothed, or otherwise provided for and treated; shall ascertain what labor they are required to perform; and shall inspect the books and accounts of the superintendent, and make report thereof at the next meeting of the board.

SEC. 6. That the board of directors shall annually report

to the commissioners of the county, the state of the institution, with a full and correct account of all their proceedings, contracts, and disbursements, and the expenses of establishing and supporting the institution, shall be paid on the order of county commissioners out of any money in the county treasury, not otherwise appropriated.

SEC. 7. That the directors aforesaid, shall have power to bind out to apprenticeship, all such poor children as may belong to such poor house, males until the age of twenty-one, and females until the age of eighteen years, unless any such female shall be married previous to that age, on such terms and conditions, as are prescribed by an act concerning apprentices and servants.

SEC. 8. That in every county, within which a poor house may be established, it shall be the duty of the directors of such poor house, to give an order on the county commissioners for the payment of such reasonable and necessary expense, as may have been incurred by any township or individual, in removing any pauper to the poor house, or that may have been incurred immediately preceding such removal, by reason of delay, caused by the sickness of such pauper, and the county commissioners shall draw their order on the county treasury for such amount: *Provided*, that said directors shall not give such order, unless they shall previously determine that such pauper is legally a county charge.

SEC. 9. That no person shall be admitted to such poor house, as a pauper, unless upon the order of the trustees of the proper township, or of the county commissioners, directed to the board of directors of the poor house of the proper county, which order shall be accompanied by a statement of the facts, signed by said trustees or county commissioners, setting forth the name, age, birth-place, length of residence, previous habits, and present condition of the person, claiming to be pauper; together with the time or times at which such person or persons, if not a native of the county or township, has been warned to depart therefrom, and if neglected to be

warned or removed, the reason or cause of such neglect; and if, on a full examination of the facts and circumstances, touching the right of such pauper to admission into the poor house, which may come to the knowledge of the directors, they shall be of opinion, from the failure or neglect of duty on the part of the overseers of the poor, or from want of proper legal residence, or from any other cause, such person is not legally chargeable to the county as a pauper, he or she, shall not be admitted to the poor house, and the superintendent shall not admit any person into the poor house as a pauper, unless upon the order of a member of the board of directors.

SEC. 10. That in case any person shall become an inmate of any poor house, supported as a pauper, whose proper place of residence is in another county, State or Territory, it shall be lawful for the board of directors of such poor house, to cause such pauper to be removed to his or her proper place of residence, in the same manner as overseers of the poor, are authorized and required to remove persons not legally chargeable by the provisions of the act entitled "an act for the relief of the Poor," and all the power and authority vested in the overseers of the poor, by and in virtue of said act, necessary to carry into effect the provisions of this section, are hereby conferred upon the directors of poor houses, for the purposes herein mentioned.

SEC. 11. That when any person has been, or shall hereafter be received into any poor house, as a pauper, on account of any infirmity, or disease, the directors of such poor house may, when in their opinion such person is so far restored to health and bodily strength, as to be able to support himself or herself, direct the superintendent of such poor house, to discharge such person therefrom.

SEC. 12. That if any pauper shall be in a situation, that will not admit of their removal to the poor house, or to their proper residence, the directors of the poor house shall have power to provide for the maintainance and support of such paupers, out of the county treasury, in the same manner as if

such paupers were in the poor house, until their condition will admit of their removal to the poor house, or to their proper residence.

SEC. 13. That the county commissioners be, and they are hereby authorized and empowered, in case the ordinary revenue of the county shall prove insufficient for the support of the poor, to levy and collect a poor tax, not exceeding one mill on the dollar, of the valuation of the property taxable for county and territorial purposes, to be entered on the grand list and collected as other taxes.

SEC. 14. That the county commissioners may allow the directors for their services, such sum as they may deem reasonable, not exceeding one dollar and fifty cents per day, for every day necessarily employed in the duties of their appointment, to be paid out of the county treasury, on the order of said commissioners.

Approved, February 17, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
*p. 83.*

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AN ACT TO AUTHORIZE BOARDS OF COMMISSIONERS TO APPOINT AGENTS AND DISPOSE OF REAL ESTATE.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of commissioners, of any county in this Territory, be and they are hereby authorized, at their discretion to appoint an agent to sell and dispose of the real estate belonging to any such county, in such manner as they may order and direct.

SEC. 2. That the said agent, before he enters upon the duties of his office, shall take an oath, faithfully and impartially to perform the same, and shall give a bond in such penal sum, as the board of county commissioners may direct, to be approved of by them, and which shall be filed with the clerk of said board.

SEC. 3. That when any agent shall be appointed, as pro-

vided in the first section of this act, shall sell and dispose of any real estate, of such county, said agent shall immediately make out and deliver to the purchaser or purchasers, a certificate, and state therein the terms of said sale, the amount for which it was sold, the amount received, the amount unpaid, (if any) and the time when it will fall due, and the said agent shall within ten days thereafter, deliver a copy of such certificate to the clerk of the board of county commissioners, of his proper county at his office.

SEC. 4. That any board of commissioners, who shall have appointed an agent, according to the provisions of this act, shall at their first session after the terms of sale shall have been complied with, as specified in any certificate of their agent, make out, execute, and deliver, on application at the office of the clerk of said board, a good and sufficient deed or deeds to the purchaser or purchasers for the same.

SEC. 5. That all sales heretofore made of any real estate, and deeds executed for the same by any agent having been duly appointed for that purpose, by the board of commissioners of any county in this Territory, be and the same are hereby declared good and valid, and sufficient for the conveyance in fee simple, of such real estate.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved, February 17, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
p. 89.

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AN ACT FOR THE RELIEF OF JAMES DAVIS, FORMER SHERIFF OF MUSCATINE COUNTY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of commissioners of the county of Muscatine, be and they are hereby authorized, to give James Davis, former sheriff of Muscatine county, and ex-officio collector of taxes, such further time as

they may deem reasonable, to make out a list of delinquents as required by the laws regulating the collection of county revenue, and that they make such settlement with said James Davis, as collector as aforesaid, as they may deem just and equitable.

SEC. 2. That said board of commissioners are hereby authorized, to require the present sheriff of said county, to collect all unpaid taxes heretofore assessed.

SEC. 3. This act to be in force from and after its passage.

Approved, February 17, 1842.

—*Reprinted from Laws of the Territory of Iowa, 1841-42,*  
p. 95.

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#### AN ACT FOR THE ORGANIZATION OF TOWNSHIPS.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the board of county commissioners in each county, not yet divided into Townships, shall as soon as they are of opinion that a majority of the people desire it, proceed to divide the county into townships in the following manner: They shall divide the county into townships of such shape and size as the convenience and interests of the citizen may require, confer upon each township the name preferred by the inhabitants of the same, and appoint the place where the first meeting of the electors shall be holden. The clerk of the said board shall record the name of each township, the time when it was set off, and a particular description of its boundaries.

SEC. 2. That the several townships which have been or may hereafter be organized, be and they are hereby formed into bodies politic and corporate, capable of suing and being sued, pleading and being impleaded in any court of law or equity in this Territory.

SEC. 3. That the electors of each township, shall on the first Monday in April, annually, after the organization of the same, assemble at some place within the township at the

hour of 10 A. M., and when eight or more electors shall have assembled, they shall elect from their number a chairman, whose duty it shall be to preside over the meeting, and to direct any constable present to remove or arrest any disorderly person or persons, and if necessary, to confine them until the close of the meeting, and it is hereby made the duty of such constable, to obey such orders; said electors shall then proceed to elect by ballot three persons having the qualifications of electors as judges of the election, who shall appoint the necessary clerk, and take an oath or affirmation faithfully to discharge the duties of their office.

SEC. 4. That the first meeting of the electors of any township, shall be held at the place appointed by the board of county commissioners but all future meetings shall be held at such place as the trustees of the township may direct.

SEC. 5. That after the election of the chairman, and judges of the election, in the manner aforesaid, the electors shall proceed to the election of one township clerk, three trustees, two overseers of the poor, three fence viewers, a sufficient number of supervisors of highways, two constables, and one township treasurer, which several officers shall continue in office until their successors shall be chosen and qualified, and shall on their respective appointments take an oath or affirmation faithfully to discharge the duties of their respective offices.

SEC. 6. That it shall be the duty of the township clerk, to keep fair and accurate records of all public transactions at the township meetings, to make out within two days after the elections of township officers a list of all of those of whom oaths are required by law, stating the offices to which they have been respectively chosen, and deliver the same to a constable of the township, requiring such constable forthwith to summons such officers to appear before a justice of the peace, or before such clerk within ten days, to take such oaths or affirmations as may by law be required, which oaths or affirmations the said clerk is authorized to administer, and of which he shall make a record, and in case any township officer shall

take the oath of office before any justice of the peace, such justice shall file a certificate thereof with the clerk of the township, who shall record the same.

SEC. 7. That it shall be the further duty of the township clerk, to record in a book to be provided by him for that purpose, all private roads or cartways established by the trustees, together with the ear marks and brands of all cattle, sheep, and hogs, and such other marks as any person may wish to have recorded in said township, but he shall not record the same mark to two different persons, and the said clerk shall be entitled to receive of the person employing him as aforesaid for recording such marks or brands, the sum of twenty-five cents, and shall deliver a certified copy of such record to the owner if required, and for recording private roads or cartways, he shall be entitled to receive ten cents for every sheet of one hundred words, Provided that in counties not divided into organized townships, the duties required of the township clerk in this section, shall be performed by the clerk of the board of county commissioners.

SEC. 8. If any person shall knowingly mark any of his horses, cattle, sheep, or hogs, with the same mark or brand previously recorded, and still used by any individual resident in the same organized township (or within five miles of such person in counties not divided into organized townships) the person so offending shall forfeit and pay for every such offence five dollars, to be recovered by action of debt before any justice of the peace, in the name and for the use of the person whose mark or brand shall be used, and if any person shall knowingly mark or brand the horses, cattle, sheep, or hogs, of any other person with his own mark or brand, the person so offending shall forfeit and pay for every such offence, to the person injured, ten dollars, to be recovered by action of debt before any justice of the peace, in the name and for the use of such person; and if any person shall knowingly and wilfully destroy or alter any mark or brand upon any cattle, horses, sheep, or hogs, the property of

another, the person so offending shall on conviction thereof, before any justice of the peace, forfeit and pay for every such offence a sum not exceeding ten dollars, and double damages to the party injured.

SEC. 9. That every person elected to the office of township treasurer, shall previous to entering on the duties of his office, give bond with security to the trustees of such township, and their successors in office, in such sum as the trustees may deem proper, conditioned for the faithful performance of his duty in receiving and paying over all moneys which may come into his hands for the use of the township, which bond shall be lodged with the clerk of the township, and if the said bond shall become forfeited, the township clerk by order of the trustees, is hereby authorized to proceed in a summary manner by motion in the district court, to recover and collect the same for the use of the township or an other person or party entitled to the same.

SEC. 10. That each township treasurer shall be allowed and may retain three per centum of all moneys paid into the township treasury for receiving, safe keeping, and paying over the same to the order of the trustees.

SEC. 11. That it shall be the duty of the trustees of the township to settle the accounts of the supervisors of the highways and overseers of the poor, and to examine and settle all accounts and demands against the township, for which purpose the said trustees, supervisors of highways, overseers of the poor, and clerk, shall meet on the first Monday of March annually, at the place of holding the township meetings, and at the same time and place it shall be the further duty of the trustees to divide their respective townships into road districts where they have not already been divided, to make any alteration they may deem proper in road districts previously made, and to determine the number of supervisors to be chosen at the annual township election, one of which supervisors shall be chosen in each road district: Provided that the electors of any township set off by the board of county com-

missioners for organization, shall at their first meeting vote for four or more supervisors, as they may deem necessary, and after the trustees have taken the oath of office they shall proceed to divide the townships into road districts, and allot each district to such supervisor resident therein, as may have received the highest number of votes, and if no supervisor shall have been elected in any district then the trustees shall appoint the same.

SEC. 12. That the supervisor of any road district, is hereby authorized to purchase, and keep in repair for the use of his district, one scraper, and such ploughs as he may deem necessary, which tools shall be used exclusively in making and repairing roads, and a receipt for the money paid in purchasing or repairing the same, shall [be] a complete voucher for the amount in the annual settlement of his accounts.

SEC. 13. That the trustees of each and every township, whenever a majority of the whole number of electors in said township shall deem it expedient, or when it shall become necessary for the support of the poor, shall have power and authority to levy a tax: Provided, that such articles only shall be subject to taxation as are made liable by the laws for assessing and collecting county revenue, and that the amount of tax so levied, shall not exceed the amount authorized to be levied on the same articles for county purposes, and if a poor tax, it shall not exceed one mill on the dollar, and when a tax is so assessed, either for township purposes, or for the support of the poor, it shall be the duty of the township clerk to make out from the county assessment roll for the township, an assessment of the tax voted for by the township, or ordered by the trustees for the support of the poor, a duplicate of which he shall deliver within twenty days to such constable of the township as the trustees shall direct, and the other duplicate within the like time to the township treasurer, and the constable receiving such duplicate, shall before he proceeds to the collection of the taxes charged therein, give bond with two or more securities, to be approved by the

trustees of the township, to the treasurer of the township, conditioned to collect and pay over to the said treasurer, or his successor in office, the amount of said tax within four months, and in case the said constable shall neglect or refuse to collect and pay over the whole amount of said tax, within the time specified in said bond, it shall be the duty of the township treasurer, after giving ten days written notice to said constable and his securities, to proceed in a summary manner by motion before the district court, and recover the amount due from such constable with twenty per centum damages thereon for such neglect or refusal, and shall have execution therefore against said constable and his securities, and the constable collecting such tax shall receive like compensation as is or may be allowed at the time to the county collector for like services.

SEC. 14. That at least twenty days before the annual township meeting, the trustees shall issue their warrant to a constable of the township, directing him to notify the electors of such township to assemble at the time and place of their annual meeting, and said warrant shall enumerate the officers to be chosen at such meeting, and on the application of two or more freeholders of the township for that purpose, said trustees shall insert in said warrant such other business as may be proposed, to be submitted to said township meeting, and no tax shall be laid at such meeting unless notice thereof shall have been given in said warrant, and the constable who shall receive such warrant, shall warn the electors of such township by setting up copies of said warrant in three of the most public places in each township, at least fifteen days before the meeting of such electors.

SEC. 15. That any person chosen to any office under this act and not exempted by law, who shall neglect, or refuse to serve in such office, shall forfeit and pay to, and for the use of the township the sum of two dollars, to be recovered before any justice of the peace, and it is hereby made the duty of the township treasurer to sue for the same, and for

all fines and forfeitures under this act for neglect or misconduct in office of any township officer: Provided, that no person chosen to any office by this law created shall be obliged to serve in such office two years successively.

SEC. 16. That when by reason of non-acceptance, death, or removal, of any person chosen to an office in any township, at the annual meeting in April, or in any case where there is a vacancy, the trustees shall fill such vacancy, and the person thus chosen shall take the same oath and be liable to the same penalties as though he had been chosen at the annual meeting; and in case there should not at any annual meeting under this act be a sufficient number of electors assembled for the choice of a chairman, as is hereinbefore provided, between the hours of ten o'clock in the forenoon and four in the afternoon, so that no township officer can be chosen by the electors, it shall then be the duty of the trustees to appoint all officers in this law enumerated, and the township officers thus appointed shall take the same oaths and be liable to the same penalties as though they had been elected at the annual meeting.

SEC. 17. That it shall be the duty of all township officers, to deliver over to their successors in office under this act, all books and papers relative to their respective offices.

SEC. 18. That whenever the board of county commissioners may deem it conducive to the public convenience, to alter the size and boundaries of any township, they shall be and are hereby authorized, to make such alteration.

SEC. 19. That any township desirous of being set off for organization, shall apply to the board of county commissioners, and it shall be the duty of said board, when satisfied that a majority of the legal voters of said township are desirous of organization, to direct their clerk to record the boundaries of said township in a book provided for that purpose, and give such township such name as the citizens thereof prefer: Provided, that no townships in any one county, shall have the same name.

SEC. 20. That all applications for laying out any cart-way or private road, shall be by petition to the board of trustees, signed by at least six freeholders of the township, residing in the vicinity where the said private road or cart-way is to be laid out; and the said petition shall specify the place of beginning, intermediate points, if any, and place of termination of said road, and or more of the signers of said petition, shall enter into bonds with sufficient security, payable to the treasurer of said township, conditioned for the payment of all costs and expenses arising from the view and survey of said private road or cart-ways.

SEC. 21. That previous to the presentation of any petition, for such cart-way or private road, notice thereof shall be given, by posting up two written notices, one at the place of holding the township elections and one in the immediate vicinity of the proposed cart-way or road, at least three weeks before the sitting of the board at which said petition shall be presented, and the petition being presented, and the board being satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of said township as viewers of said road, and a surveyor if required by the petitioners to survey the same, and shall issue an order directing the viewers, after they have been duly sworn, to proceed on a day named in said order, or within five days thereafter, to view and lay out said road, or if a surveyor be appointed to lay out and survey said road and make report to the board aforesaid at their next meeting, and if no remonstrance signed by at least six signers, shall be filed with said board, or presented the day on which said viewers make their report, and said viewers shall report in favor of establishing said road, then the same shall be recorded in the record of said township as a private road or cart-way, which said record shall be a bar to any application for damages, and the said trustees shall issue their order to the owner or owners of the land through which the said road or cart-way may be established, directing him or them within

such time as they may deem proper to provide such gates as may be necessary for a quick and convenient passage through such fences as may cross said road.

SEC. 22. That if any person or persons, through whose land any such cart-way or private road may be laid out, shall feel injured thereby, and remonstrance having been made as provided for in the preceding section, shall make application to the said trustees at their first session after the view of said cart-way or private road, it shall be the duty of said trustees to appoint three disinterested freeholders of said township, whose duty it shall be to proceed, after being first duly sworn, to view that part of said cart-way or private road through the premises of said complainant, and assess the damage of said complainant, if any, and make report in writing to said board, and if said viewers shall report that the advantages of said private road or cartway are not equal to the damages occasioned thereby to the premises of the complainant, and shall therein report the amount of damage the petitioners shall be required to pay the damages so assessed, and until he does so said trustees shall refuse to establish said private road or cart-way, and all the expenses of the viewers and surveyor, if any, both at the first and second view, shall be paid by the said petitioners, and if they shall neglect or refuse so to do, it is hereby made the duty of the said treasurer to commence suit on the bond, and prosecute the same to final judgment and execution.

SEC. 23. That the constables shall take the oath and file the bond required in the "act for electing constables, and defining their duties," approved January 24, in the year 1839.

SEC. 24. That the trustees by virtue of their office, shall be judges of all general and special elections held within their respective townships, and shall conform to the requirements in that respect of the act regulating general elections, and a majority of the trustees at any township meeting, shall be a quorum for the transaction of any business.

SEC. 25. That the act providing for the organization of

townships, approved January 10, 1840, and an act to amend an act providing for the organization of townships, approved January 15, 1841, are hereby repealed.

SEC. 26. That the judges and clerks of election in said township shall require no compensation from the county treasury for services as such.

SEC. 27. This act shall take effect and be in force from and after its passage.

Approved, February 17, 1842.

—Reprinted from *Laws of the Territory of Iowa, 1841-42*,  
p. 97.

## NUMBER XXI.

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The documentary material presented in this number is illustrative of the extent to which the Governor of the Territory of Michigan endeavored to put local constitutional government into operation in the country west of the Mississippi river in accordance with the act of Congress of June 28th, 1834,<sup>1</sup> and the act of the Legislative Council of the Territory of Michigan of September 6th of the same year.<sup>2</sup>

The extract from Governor Mason's message and the action of the Legislative Council relative thereto are taken from the original manuscript copy of the "Journal of the Sixth Legislative Council, Extra Session, Territory of Michigan, Book 5" as preserved in the principal vault in the office of the Secretary of the Commonwealth of Michigan.

The data relative to appointments made by the Governor of the Territory of Michigan are taken from the original manuscript copy of the "Record of Acts and Proceedings of the Executive Department of Michigan Territory," being Executive Journal, Vol. 2, Michigan Territory, Book No. 251, as preserved in the principal vault in the office of the Secretary of the Commonwealth of Michigan.

B. F. S.

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<sup>1</sup> See Vol. I., No. III. of this series, p. 76.

<sup>2</sup> See Vol. II., No. XVI. of this series, p. 283.



THE RECOMMENDATIONS OF THE GOVERNOR  
OF THE TERRITORY OF MICHIGAN.AN EXTRACT FROM THE MESSAGE OF GOVERNOR MASON TO  
THE LEGISLATIVE COUNCIL OF THE TERRITORY OF MICHIGAN.

Tuesday, September 2, 1834.

\* \* \* \* \*

To the Legislative Council of the Territory of Michigan.  
\* \* \*

An act of Congress having attached to Michigan all that district of country North of the State of Missouri, and west of the River Mississippi, an extension of the laws of the Territory over that district has become necessary. The inhabitants on the western side of the Mississippi are an intelligent, industrious and enterprising people, and their interests are entitled to our special attention. At this time they are peculiarly situated. Without the limits of any regularly organized local government, they depend alone upon their own virtue, intelligence and good sense as a guaranty of their mutual and individual rights and interests. Spread over an extensive country, the immediate organization for them of one or two counties with one or more townships in each county, similar to the organization of other parts of the Territory is respectfully suggested and urged. A Circuit and County Courts will also be necessary, authorizing and making a special circuit for the counties west of the Mississippi, in as much as it would be unreasonable to require the attendance of the inhabitants of that section at the courts east of the river. I confidently, however rely upon your diligence and wisdom for all the measures demanded by the annexation of the new territory to the limits of Michigan.

\* \* \* \* \*

September 1, 1834.

STEVENS T. MASON.

**EXTRACTS FROM THE JOURNAL OF THE LEGISLATIVE COUNCIL  
RELATIVE TO THE GOVERNOR'S RECOMMENDATIONS.**

Mr. Bacon submitted the following resolutions: \* \*

That so much of the said message as relates to the organization of the district of country west of the Mississippi, be referred to the committee on the Judiciary: \* \* \*

Mr. Britain moved to amend the third resolution so as to refer the same to the committee on Territorial Affairs.

And the yeas and nays being demanded on this motion, it was decided as follows:

Yea: Mr. Britain, Mr. Moran, Mr. Satterlee. 3.

Nay: Mr. Bacon, Mr. Farnsworth, Mr. Hascall, Mr. Martin, Mr. Renwick, Mr. Stockton, Mr. McDonell, President. 7.

So the said motion was lost and the resolution agreed to.

**A PETITION FROM DU BUQUE MINES.**

Wednesday, September, 3. 1834.

\* \* \* \* \*

Mr. Doty presented a petition from sundry inhabitants of the county of Du Buque Mines on the western side of the Mississippi, praying for the organization of that country, and for the location of the seat of justice at the Village of Du Buque.

The petition was laid on the table.

**APPOINTMENTS FOR THE COUNTIES OF  
DU BUQUE AND DEMOINE.**

September 6. 1834—On this day the following appointments were made by and with the consent of the Legislative Council

\* \* \* \* \*

**DUBUQUE**

THOMAS MCKNIGHT	Chief Justice
MILO H PRENTICE	Associate Justice
HOSEA T. CAMP	Do.

WARNER LEWIS	County Clerk
LUCIUS LANGWORTHY	Sheriff
EZEKIAL LOCKWOOD	Judge of Probate
WARNER LEWIS	Register of Probate
MILo H PRENTICE	Notary Public
PETER A LORIMER	Supreme Court Commissioner.
BRATTON B. BUSHY	
FRANCIS GEHON	
WOODBURY MASSEY	
IRA WILLIAMS	
EDWARD WHITE	
JOHN SHERMAN	

}

Justices of the Peace

—Printed from “Record of Acts, etc.” pp. 106-108.

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December 26. 1834—On this day the following appointments were made by and with the advice and consent of the Legislative Council viz:

\*      \*      \*      \*      \*

DEMOINE

WILLIAM MORGAN,	Chief Justice
EZEKIEL SMITH	
YOUNG L. HUGHS	
LEONARD ABNEY,	Associate Justices
JOHN WHITAKER,	
WILLIAM R. ROSS,	Supreme Court Commissioner
SOLOMON PERKINS	
JOHN M. FORREST,	Judge of Probate
THEOPHILUS BULLARD	County Clerk
JOHN BAKER	Sheriff
SAMUEL CARMAN	Notary Public
JOSEPH EDWARDS	
EVAN T LARREL	
WILLIAM STEWART	

}

Justices of the Peace

Register of Probate

## DUBUQUE

LORIN WHEELER,	Chief Justice,
MILO H. PRENTICE	} Auctioneers
JAMES MARSTON	
BENJAMIN F BAKER	} Justices of the Peace
WARNER LEWIS	

—*Printed from “Record of Acts, etc.,” pp. 116, 117.*

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December 27. 1834—On this day the following appointments were made by and with the advice and consent of the Legislative Council viz:—

\* \* \* \* \*

## IOWA, CRAWFORD, DUBUQUE AND DEMOINE

THOMAS P. BURNET	District Attorney
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—*Printed from “Record of Acts, etc.,” pp. 117, 118.*

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January 21. [1835]. On this day the following appointments were made by and with the advice and consent of the Legislative Council, viz:—

\* \* \* \* \*

## DUBUQUE.

WILLIAM W. WAYMAN	Do [i. e Justice of the Peace]
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—*Printed from “Record of Acts, etc.,” p. 119.*

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1835 May 16th On this day the following appointments were made to continue until the next Session of the Legislative Council viz:—

## DUBUQUE

DAVIS GILLILAN	Sheriff
*	*

\* \* \* \* \*

DEMOINE

YOUNG L HUGHES

Chief Justice Co. Ct.

JOHN M. FORREST

Associate Justice Do

—Printed from “Record of Acts, etc.,” p. 135.

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1835 June 20. On this day the following appointments were made to continue until the next session of the Legislative Council viz:—

\* \* \* \* \*

DUBUQUE

JOHN KING

Chief Justice of the County Court

Printed from “Record of Acts, etc.,” pp. 139, 140.

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October 5th [1835] Resignation of T. D. Burnette District Attorney for the Counties of Iowa, Crawford, Dubuque and Demoines was rec'd and filed.

—Printed from “Record of Acts, etc.,” p. 152.

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1835. October 29. On this day the following appointments were made to continue in force until the end of the next session of the Legislative Council:

\* \* \* \* \*

DUBUQUE, CO.

PATRICK QUIGLEY,

Do [i. e Justice of the Peace]

—Printed from “Record of Acts, etc.,” p. 158.

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March 28th 1836. On this day the Resignation of Joseph Edwards as a Justice of the Peace in and for the County of Des Moines, was received, accepted and filed.

1836. March 28th. On this day the following appointments were made.  
George H. Beeler, Justice of Peace, in Des Moines Co.  
William R. Ross, Justice of Peace, in Des Moines Co.
1836. March 30th.  
On this day the following Appointments were made.  
Henry Walker, Associate Judge, for Des Moines County Court  
Arthur Inghram, Associate Judge for Des Moines County Court.
- 1836 March 30th. On this day the Resignation of, Young L Hughes, as Chief Justice of the County Court of Des Moines was received accepted and filed.—
- March 31st 1836. On this day, the following Appointment was made, Isaac Leffler, to be Chief Justice for the County Court of Des Moines County.
- 1836 March 31st. On this day the following Appointments were made.  
Samuel C. Reed, Justice of Peace, in Des Moines Co  
Henry Bateman, Justice of Peace, in Des Moines Co  
Joseph C. Smith, Auctioneer, in Des Moines Co
1836. April 1st. W. W. Chapman, appointed District Attorney, this day for Des Moines, Du Buque and Iowa Counties.
1836. April 1st. On this day the following appointments were made.  
Antoine Leclaire Justice of Peace, in Des Moines County  
Benjamin Nye, Justice of Peace, in Des Moines County
1836. April 2nd. On this day Ezekiel Mitchell was appointed a Justice of Peace for Du Buque County.

- 1836 April 4th. On this day the Resignation of Davis Gillilan, as Sherriff of Du Buque County was received, accepted, and filed.
1836. April 6th. On this day George W. Cummings was appointed, Sherriff in and for the County of Du Buque.
- 1836 Apl 6th. On this day the following appointments were made.  
Presly Samuel, Justice of Peace, in Du Buque County  
Thomas Read Justice of Peace in Du Buque Co  
David Dyas Justice of Peace in Du Buque Co  
Hiram Loomis Auctioneer in Du Buque
- 1836 April 26th. On this day Iria Cook was appointed a Justice of Peace for Des Moines County.
- 1836 April 26th On this day the following Appointments were made—  
John O. Graham, Auctioneer, in Dubuque County.  
Henry F Lander Justice of Peace, in Du Buque County

—*Printed from “Record of Acts, etc.” pp. 162, 163, 164.*



## NUMBER XXII.

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The documentary material presented in this number is illustrative of political methods in Iowa in 1835. The letters give evidence of a desire among the people for a voice in the selection of local officers.

B. F. S.



MISCELLANEOUS LETTERS.

Dubuque April 8 / 35

To his Excellency  
the acting Governor  
of Michigan Territory

At a Meeting of the citizens of Dubuque County & Town aforesaid, for the purpose of nominating a suitable person for the office of Chief Justice of the County, aforesaid to fill the Vacancy occasioned by the resignation of Mr. Loring Wheeler the following proceedings were entered into Mr. Woodbury Massey was called to the chair & Wm Myers, appointed Secretary, the Object of the Meeting having been explained from the Chair. Mr. John King was unanimously nominated to fill said office. On motion M. H. Prentice was appointed to draft a petition to your Excellency in favor of such nomination.

WILLIAM MYERS Secty

W. MASSEY Ch'm

---

Dubuque April 8. 1835

To his Excellency  
The Gov'r of the Territory  
of Michigan.

Whereas the office of Chief Justice of the County Court of Dubuque County, has become vacant by the resignation of Lorin Wheeler Esq. Now therefore, we the undersigned, citizens of the County aforesaid, do hereby earnestly recommend to your Excellency our worthy fellow citizen, John King Esq., as a suitable person & well qualified to discharge the duties of said office, and as in duty bound your Petitioners will ever pray &

MILO. H. PRENTICE

[Signed by 112 others]

*—Printed from the original manuscript copy of petition as preserved in the office of the Secretary of the Commonwealth of Michigan.*

Du Buque April 20th 1835.

Sir

In consequence of the dissatisfaction which seems to exist in reference to my being appointed Chief Justice for this co. I now tender You my resignation which I hope You will be pleased to accept. My reason for doing this is to quiet the minds of a few who think that the Executive has not power to make appointments without this approbation.

Yours Respectfully

To his Excellency

L. WHEELER.

S. T. MASON

*—Printed from the original manuscript copy of letter as preserved in the office of the Secretary of the Commonwealth of Michigan.*

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Dubuques Mines May 25 / 35

To His Excellency the Gov'r.  
of the Territory of Michigan

Sir

Be pleased to permit the undersigned to say a few words in relation to the appointment of Chief Justice of our County Court. Your Excellency will probably recollect that, the first appointment made to that office, was not accepted by him, whom the People had nominated & your Ex'cy appointed, to wit, Thos. McKight Esq. Subsequently, under the impression that civil law could not go into operation without the existence of that officer, the people assembled again to nominate another person to fill said office—whereupon Mr John King was, with the exception of 2 or 3 persons present, unanimously nominated to your Excellency for that office. In order that there should be as little delay as possible in the organization of civil govt. here, the proceedings of the meeting were sent by express, in advance of the mail, to Galena to be mailed there, as in so doing 2 or 3 days would be gained in the time of their reaching your Excl'y—The next

news in reference to the subject, was, the appointment of Mr Lorin Wheeler to fill said office—it does not become us to say any thing in relation to the politics or private character of Mr Wheeler, but this much we do say, that he is *not* the choice of the people, for that office—During the week of our Court the People held another public meeting on the subject, & waited upon Mr Wheeler to know his intentions in relation to his holding on to the commission—He said he should resign & told the people to go on and make another nomination & his resignation should accompany the nomination to the Gov'r Accordingly the meeting proceeded to nominate a person to fill the vacancy occasioned by Mr Wheeler's resignation, (the proceedings of which meeting accompany this) but the Resignation does not but we are assured by Mr Wheeler that he has sent it on some time ago—the Proceedings of our meeting have been kept back in waiting for the promised resignation to accompany them—in conclusion we would say, that we have no personal enmity to Mr Wheeler & in as much as the people have honored us with their confidence, (of which we are proud) we deem it a duty we owe to ourselves as well as to our fellow citizens, under present circumstances, to make a few plain statements of facts in the case & cordially & earnestly unite with our fellow citizens in the renomination of Mr John King to the office of Chief Justice of the County Court of Dubuque County—We have the

Honour to be

Your Excellency's Ob't

and humble Servants.

MILO H PRENTICE

Associate Justices

HOSEA T. CAMP

of Dubuque County

—Printed from the original manuscript copy of letter as preserved in the office of the Secretary of the Commonwealth of Michigan.

Du Buque County M. Ty.  
April 15. 1835

To the Gov. of the  
Territory of Michigan  
Dear Sir

Sometime Since I apprised your Excellency of the vacancy of the office of Sheriff of this County: For the general satisfaction of all parties, the inhabitants of this County, thought that the best method of recommending a suitable person for that office, was to elect one at our last annual Township meeting. At which time there were several candidates for the office: and in the event, Mr. Davis Gillilan was duly elected. I am therefore authorized to say to your Excellency, that he is the choice of the people, and hope that a Commission will be prepared and sent as early as practicable—

Very Respectfully  
Yr obt Servt  
WARNER LEWIS Clerk  
C. C. Du Buque Co

*—Printed from the original manuscript copy of letter as preserved in the office of the Secretary of the Commonwealth of Michigan.*

Burlington Demoine County Michigan Territory  
April 17th 1835

To the Hon'ble Governor of Said Territory

The subscribed take pleasure in stating that Wm. R. Ross Clerk of the Court of which we are members has conducted himself with credit to himself and satisfaction of the Court. And so far as the Court have been able to judge discharged faithfully and impartially the duties of the office of Clerk of the County Court of Demoine County. That he is a man of good character & upright deportment—

Yours Respectfully  
WM. MORGAN.  
Y. L. HUGHES.

Burlington April 17. 1835.

To the Hon'ble Governor of M. T.

D sir

Having been appointed by the County Court of Demoine County to prosecute in the name of the United States in said court And being requested as such to state the manner in which Wm R. Ross as clerk of the county court of said county has discharged the duties thereof I take pleasure in saying that he has discharged the duties of said office faithfully & impartially. That I believe Mr Ross to be equally as well qualified to performe duties of said office as any person within my knowledge residing in the county—That Mr Ross so far as I am able to judge is of good moral conduct

Yours

With Respect

W. W. CHAPMAN.

Quincey Ill April 25 1835

Having lately attended the court above alluded to as a member of Bar I deem it an act of Justice to state that Doct Ross Clerk of said court did the duties of his office well and as far as I could learn from the Citizens they are well pleased with the appointment and if the appointment were left to that county or the court that he would secure the appointment I have been acquainted with Dr Ross about 3 years and will state as a man of good moral character he stands well.

ROBERT R WILLIAMS

[The above three letters are found in one document.]

*—Printed from the original manuscript copy of letters as preserved in the office of the Secretary of the Commonwealth of Michigan.*

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Burlington April 18th 1835

To the Governor of the Territory of Michigan

Sir you will please accept this as my Resignation of the

Commission of Chief Justice of the County Court of Desmoine County Michigan Territory

Governor of  
Michigan  
Detroit

Respectfully  
WM MORGAN

*—Printed from the original manuscript copy of letter as preserved in the office of the Secretary of the Commonwealth of Michigan.*

---

Burlington Demoine County April 18, 1835

D sir

Having learned that Chief Justice Morgan has presented his resignation, I deem it my duty to request that Young L Hughs at present an associate J. of the county Court of said County be made Chief Justice He is as good & perhaps better qualified than any other individual with us. And has now set one Term and become acquainted with the manner of doing business And permit me to recommend John M Forest as well qualified to fill the place of Young L Hughs, you will perceive by examining that Mr Forest & Mr Hughs had no objection at our first organization. Mr Forest refuses to accept the office for which you sent him a commission—

Yours Sir.

W.M. R. Ross.

I concur with Dr Ross in the recommendation above made

Yours

Respectfully

W. W. CHAPMAN

*—Printed from the original manuscript copy of letter as preserved in the office of the Secretary of the Commonwealth of Michigan.*

Dubuque 23. Sept 1835.

To his Excellency, Stevens. T. Mason,  
Governor of Michigan Territory.

Dear sir,

In consequence of the death of Woodbury Massey one of the Justices of the Peace for Dubuque County, it will be necessary for you to appoint some person to fill the vacancy—

We would respectfully recommend to your Excellency, our fellow Citizen Patrick Quigley as a person well qualified for the Office of Justice of the Peace, & pray your Excellency to give him the appointment.

Respectfully your Excel'y's  
humble. & Obt Serva'ts.

A. HILL

[ Signed by 68 others.]

*—Printed from the original manuscript copy of petition as preserved in the office of the Secretary of the Commonwealth of Michigan.*



## NUMBER XXIII.

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All of the documents presented in this number are printed from the original manuscript copies thereof as preserved in "Box 572" in the vault of the office of the Governor of the Commonwealth of Wisconsin. They consist largely of petitions and recommendations relative to the appointment of local officers.

B. F. S.



## PETITIONS AND RECOMMENDATIONS.

To the Honorable the Council and House of Representatives.

At a meeting held at J. A Lewin on the 2d. of Dec. 1837. in pursuance of previous notice, Mr. James D. Spearman was unanimously chosen to fill the office of Magistrate for the vicinity.

We therefore Your humble petitioners do pray your honorable Body to appoint the said J. D. Spearman for the Same, and we your humble petitioners will ever pray

S. H. PIRKEY [and 32 others]

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To his Excellency the Governor and Council of Wisconsin Territory. we the under signed being the Settlers of Muska-teen county wisconsin Territory and we beeing distitute of A Justice of the Peace without being to the Inconvenience of going some fifteen or twenty miles to do our Business. we there fore Pray your Excellency to appoint Mr. John M. Kidder who is made choice of by the People of this vicinity as A Suitable man to Execute that office. And your Petitioners as in duty bound will ever pray dated at Williams Port Muskateen Co. this 31st day of August 1837

JAMES SOLISBURY [and 13 others]

---

To His excellency Henry Dodge Governor of Wisconsin Territory

Your petitioners confiding in the integrity, and qualifications of James N. Snyder to perform the duties of Surveyor would respectively recommend his appointment to the office of District Surveyor for the County of Henry and your petitioners as in duty bound will ever pray

Dec. 1. 1837

W. L. JENKINS [and 5 others]

To his Excellency, H. Dodge

The undersigned Respectfully Recommend to you as suitable Persons to fill the office of Justices of the Peace for Desmoine County John O Smith & William Smith

G. W. TEAS [and 6 others]

---

To His Excellency Henry Dodge Gov. of the Territory of Wisconsin

We the under Signed beg leave, and take pleasure in recommending the following named persons to fill the office of Justice of the Peace in and for the County of Desmoines to wit James D Spearman, James Hedrick and John D Wright

With Respect we remain Yours Sincerely

JEREMIAH SMITH [and 7 others]

---

To his Excellency the Gov. of Wisconsin Territory—

We the undersigned respectfully recommend to your Excellency John Cockran Sen'r a citizen of Vanburen County— A man of good moral worth in every way well qualified to discharge the duties Justice of the peace for said County—

J. B. TEAS [and 7 others]

---

To his Excellency, Henry Dodge, Governor of the Territory of Wisconsin

We the undersigned, citizens of Desmoines County would recommend James W Grimes of Burlington as a suitable person to fill the office of Magistrate in said County.

A. D. BROWNING [and 17 others]

---

To his Excellency Henry Dodge Governor of Wisconsin Territory

We the undersigned beg leave most Respectfully to pre-

sent to your notice; John B. Newhall Esq., as a Gentleman, eminently qualified and Competent; to fulfill & discharge the duties of Auctioneer, for the Town of Burlington, & County of Des Moines; And as such we respectfully solicty your Excellency to grant the appointment to said Newhall; under a full sense and belief, that such appointment will meet the views and be highly acceptable to his fellow Citizens Gener-ally.

JERAMIAH SMITH [and 5 others]

---

To his Excellency Henry Dodge Governor of the Territory of Wisconsin:—

The undersigned citizens of the County of Des Moines recommend Henry W. Moon as a suitable person for the office of Notary Public for said County.

ENOS LOWE [and 27 others]

---

To his Excellency Henry Dodge Governor of Wisconsin Territory

Your Petitioners citizens of Louisa County would respectfully represent that we are laboring under some inconvenience from the want of a sufficiency of Justices of the Peace, and request the appointment of James G. Hall, Zadoc C. Inghram and John Reynolds to fill that office in Louisa County. Your petitioners believe these persons to be qualified for the office and that their appointment will be satisfactory to the people of Louisa County And your petitioners as in duty bound will ever pray etc.

DANIEL BREWER [and 45 others]

---

To His excellency Henry Dodge Govor of Wisconsin Terri-tory

Your petitioners would respectfully represent that Tur-man [?] G. Clarke, William Kennedy, and Isaac Parsons of the county of Louisa are suitable persons to fill the office of

justice of the peace and would therefore would humbly & earnestly recommend them to your most favorable notice for the same and your petitioners will ever

W. L. JENKINS [and 6 others]

---

To His Excellency Henry Dodge Governor of Wisconsin Territory

The undersigned having confidence in the Worth and legal attainments of Isaac Van Allen Esqr., a citizen of Wisconsin Territory and resident of Mount Pleasant Henry County, would respectfully introduce him to your notice as a suitable and competent person to fill the office of prosecuting attorney for said county of Henry, while at the same time such appointment will both promote the public good and receive popular approbation and as in duty bound your petitioners will ever pray.

W. L. JENKINS [and 7 others.]

---

To His Excellency Henry Dodge

We your humble petitioners are of the opinion that the good of Henry County require the appoint of Hezekiah S. Dunham to fill the office of Justice of the peace in & for the same and your Petitioners will ever pray.

W. L. JENKINS [and 6 others]

---

To His excellency Henry Dodge Governor of Wisconsin Territory,

Your petitioners Respectfully represent that the good of the community require the appointment of William G. Coop James Gilmore and Scott Walker to fill the office of Justice of the peace in the western part of Henry County. And also the reappointment of Geo. Moffett, Wilson Lowel [?], Abraham Undergraft and Robert Pollock to the same and your petitioners are fully of the opinion that these appointments

will meet with the approbation of the citizens generally and as in duty bound will we pray

W. L. JENKINS [& 4 others]

---

To the Honourable the Legislature of Wisconsin Territory. the Subscribers a portion of the citizens of Henry County having no Magistrate near them request your Honourable Body to appoint and your Subscribers Would recommend Mr. William Newman as a suitable Person to fill that office Mr Newman is a respectable citizen & Will no doubt discharge the duties of that Station With credit to himself and to the entire Satisfaction of the Subscribers.

PAUL BRATTAIN [& 14 others]

---

To His excellency Henry Dodge Governor of the Territory of Wisconsin

Your petitioners humbly represent that the good of the public in the neighborhood of New London Henry County W. T. would be greatly promoted by the appointment of Nerrian Steel to fill the office of justice of the peace for said place and your petitioners reposing great confidence in his integrity and ability to perform the duties of the same satisfactorily to all, would most respectfully recommend him to your favorable consideration, and as in duty bound will ever pray.

Dec 8th 1837

W. L. JENKINS [& 6 others]

---

To the Honourable the Legislature of Wisconsin Territory. the Subscribers a portion of the citizens of Lee county Wisconsin Territory having no magistrate in or near our neighbourhood request your honourable Body to appoint and Your Subscribers recommend our Worthy friend Mr Paul Bratton as a suitable Person to fill that station Mr Bratton is a

Worthy citizen and Well Qualified to Descharge the Duties of a Magistrate.

JAMES F. RICE [and 20 others]

---

To his Excellency Mr Henry Dodge Governor of Wisconsin Territory the Subscribers Members of the council and house of representatives of Said Territory having evidence from a recommendation of the citizens Lee County of the ability and Qualifications of Mr Paul Bratton to descharge the duties of a Magistrate hereby recommend him to Your Excellency as a Suitable person for Magistrate in his neighbourhood

W. L. JENKINS [and 3 others.]

---

To his Excellency H Dodge

The undersigned Respectfully Recommend to you as suitable Persons to fill the office of Justice of the Peace in Van buren County John Whitaker H P Greaves Samuel Moreton and Lemuel G Jackson

G W Teas [and five others.]

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To his Excellency Henry Dodge Governor of the Territory of Wisconsin

We the undersigned respectfully recommend the appointment of Philip Viele of the town of Fort Madison Lee County to fill the office of District Attorney in said County, Dated at Burlington December 6th 1837—

THOMAS M KNIGHT [and 9 others.]

---

To the Governor and Legislative Council of the Territory of Wisconsin:—We the citizens of Van Buren county in said Territory would respectfully represent unto you that as James G. Kenner Esq. of our county was appointed a Justice

of the Peace within and for the same during the late recess of the council, and as the said Kenner has performed all the duties of said office with promptness and fidelity, we therefore pray that he may be reappointed. November 6. 1837.

DAVID MASTEN [and 78 others.]

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To His Excellency Henry Dodge and the Hon'ble the Council of the Territory of Wisconsin.

The petition of the undersigned Inhabitants of the County of Lee respectfully Solicit the nomination and appointment of Henry Enos Esq of The Town of Fort Madison to the office of Judge of Probate for said County believing him in every respect well qualified to fill the office and that it would give general satisfaction to people of the County.

Fort Madison Dec 28 1837.

ENOCH GILBERT [and 42 others.]

---

We the Undersigned Citizens of Lee County. Wisconsin Territory Wish a County Surveyor appointed So that the Lines & Corners of our improved claims May be correctly established. We Would therefore recommend Mr Cyrus Poague as a Suitable person to fill that office. Mr. Poague is a respectable citizen and has for Some time past resided in our County besides the Qualification of Mr Poague both as to the theory and practice of Surveying, he is possessed of that industry and perserverence which renders him Well Qualified to discharge the duties of that Station We therefore take pleasure in recommending him to the Legislature as a Suitable person for our County Surveyor

J. W. PRICE [and 82 others]

West Point Lee County

Wisconsin Territory November 4th 1837

To the honorable Henry Dodge governor of said Territory

We the undersigned Citizens of said county do represent to your honor that in our opinion it is necessary for another justice of the peace to be appointed in the vicinity of West Point Lee county. We therefore recommend Hawkins Taylor as a suitable person in all respects to execute and fulfil said office. Therefore we jointly solicit your honor that you would appoint and commission Said Taylor and oblige your humble petitions

JACOB THOMAS [and 77 others.]

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Montrose (late Fort Des Moines) W. T.

December 26, 1837.

Sir—

Your Commission appointing me a Justice of the Peace for this County was received at a time when I when was confined to a bed of Sickness. In the course of two or three weeks thereafter, & before I had recovered, the paper which I was conducting was stopped by the proprietor, & I then expected to remove from the Territory. Since which time till lately, I considered myself unsettled, and did not think it proper to get sworn into office. But I have now determined to remain here & would be gratified, should you deem it expedient, to receive an appointment for another term—the term for which I was commissioned, being about to expire by limitation.

With the greatest respect I remain

Your Most Obedient Servent,

THOMAS GREGG

His Excellency, Henry Dodge

Gov. Wisconsin Territory

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To His Excellency Henry Dodge, Governor of the Territory of Wisconsin,

The undersigned inhabitants of the County of Lee respect-

fully represent That John A. Drake of the town of Fort Madison in Said county is a man of intelligence and probity and well qualified to discharge the duty of Justice of the Peace: and do, therefore, recommend him to your Excellency for that place.

Fort Madison December 30th 1837.

PHILIP VIELE [and 72 others.]

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To his Excellency Henry Dodge Governor of Wisconsin,

Your petitioners would respectfully recommend James W. Tallman a citizen of Ceader County as a person well qualified to discharge the duties of the office of Sheriff;

We would therefore request your Excellency to confer said appointment upon him for Ceader county

With our respect yours H.

ALEXANDER W. McGREGOR [and 4 others.]

---

To the Honorable the Governor of the Territory of Wisconsin

The undersigned citizens of Lee county would beg leave respectfully to represent, That they labor under serious disadvantages in consequence of a want of a sufficient number of Justices of the peace in said county.—We therefore pray your honor that an additional Justice of the peace be appointed in said county, & would respectfully recommend Mr William Coleman Jr of Montrose in said county as a suitable & proper person for said office of Justice of the Peace.—

Lee County W. T. Dec'r 5th 1837.—

JEREMIAH SMITH [and 8 others]

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To the Hon. Henry Dodge, Governor of Wisconsin Territory

At a meeting of the citizens of Fort Madison at the house of C. L. Cope on Saturday 18th Instant—William Wilson

was nominated as a suitable person, for the office of "Justice of the peace" in the place of Joseph Douglass Dead. We the undersigned citizens of Fort Madison, do ask that he may receive the appointment

Fort Madison Nov 27th. 1837

JOEL C. WALKER [and 56 others]

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To His Excellency Henry Dodge Gov'r of the Territory of Wisconsin

We the undersigned beg leave and take pleasure in recommending Anthony Street of the County of Lee, to fill the office of Justice of the peace in and for the County of Lee, and is in every way well qualified to discharge the duties of the same

With Respect we have the Honor to be Your Humble Servts etc

JOHN Box [and 6 others]

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To his Excellency Henry Dodge Governor of Wisconsin Territory.

The Petition of the undersigned inhabitants of Du Buque County respectfully represents:

That your petitioners reside in that part of Du Buque County known as the settlement about the falls of the North fork of the Maquokets and extending westward to the South fork of said River comprehending a considerable and rapidly increasing population. That the appointment of a suitable person to act as Justice of the Peace who resides in said settlement would be agreeable to the wishes of the inhabitants thereof and do therefore recommend to your Excellency Asa Leek \_\_\_\_\_ as a suitable person to discharge the duties of said office

Your Petitioners further represents to your Excellency that the creation of a new Precinct is necessary for the accommodation of that part of Du Buque County above men-

tioned and that if there is any power or Law existing to enable your Excellency to establish precincts, your petitioners pray that a new precinct may be established in that part of Du Buque County known as Maquoketa Falls—at the house of Nicholas DeLong at said Falls

And your petitioners will ever pray etc.

Dated October 2. 1837—

ABRAHAM HOSTETLER [and 24 others]

---

To his Excellency the Governor of the Territory of Wisconsin

The undersigned citizens of Dubuque County would most respectfully recommend to your Excellency Mr Thomas Childs of this County as a suitable person for the office of County Surveyor of Dubuque Co. Mr. Childs is an old settler of this County, a gentleman of high standing, and perfectly competent to perform the duties of that office, we would therefore humbly petition your honorable body to have him appointed to that office, and as in duty bound your petitioners will ever pray etc—

WARNER LEWIS [and 65 others]

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To his Excellency Henry Dodge Governor of the Territory of Wisconsin

In as much as there is a vacancy in the office of Lieut. Colonel of the first Brigade and fourth Regiment of the Wisconsin Militia, the undersigned Citizens of the County of Dubuque composing the fourth Regiment would respectfully recommend to you Mr. David Sleator as a suitable person to fill said office—Mr. Sleator is an old settler of this County and from his gentlemanly deportment and high standing as a citizen, warrant us in saying, that his appointment to that

office would give general satisfaction, as well as greatly aid the organization of the Militia of this part of the Territory.

Very Respectfully

Yr. obt. Servts.

PAUL CAIN [and 24 others]

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His Excellency Henry Dodge Governor of Wisconsin Territory

Your petitioners respectfully recommend as a suitable person to fill the office of justice of the Peace for Johnson County Mr Isaac N. Lesh, whom we believe fully competent and one that will render general satisfaction if appointed. With sincere respect we remain yours etc

H. NOWLIN [and 9 others]

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To His Excellency Henry Dodge Governor of the Territory of Wisconsin

We Your Petitioners would respectfully present Martin Dunning James. N. Holly George Beck and Martin Ames as suitable persons to fill the office of Justice of the Peace in the County of Clinton

And we Your Petitioners as in duty bound will ever pray

LORING WHEELER [and 2 others]

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To his Excellency Henry Dodge Governor of Wisconsin Territory.

We your petitioners respectfully recommend Jos. T. Fales William Morrison and C. C. Bellows citizens of Dubuque County, as suitable persons to act as justices of the peace for said County

H. NOWLIN [and 4 others]

To his Excellency Henry Dodge Governor of the Territory  
of Wisconsin—

Your petitioners would respectfully represent that by a late Law of the Territorial Legislature a new County is to be organized out of the original Counties of Desmoine and Dubuque called Scott and that as a matter of course the Commissions of the present magistrates will expire with the organization of Scott County.

We your petitioners would Therefore respectfully ask your excellency to appoint and commission Ira Cook Lewis Ringlesby and Samuel Marr Justices of the peace for said County of Scott and your petitioners will as in duty bound ever pray

HENRY W. HIGGINS [and 36 others]

John M. Robertson with the universal consent of all of this portion of the county

The undersigned do not see the necessity of re-commissioning Ira Cook as a Justice of the Peace of Scott County as he will remain in office in the County in which he may happen to fall—

They respectfully recommend the other two gentlemen within named to be appointed Justices of the Peace for Scott County—

P. H. ENGLE [and 3 others]

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Dubuque May 6th 1837

To His Excellency H. Dodge Gov'r W. T.

Being much engaged in other business and not able to attend to the duties of office of District Attorney, for the County of Dubuque which I now hold, in a suitable manner I beg leave to resign the said office, and would respectfully recommend Thomas S. Wilson Esq'r of Dubuque, to your Excellency as a proper person, to perform the duties of that office, and would solicit his appointment as my successor.

I remain ever your Excellencys most Obedient Serv't

W M W. CORIELL

Davenport W. T. May 4th 1837

To his Excel. Henry Dodge Gov. of Wisconsin Territory.

Sir,

Herewith I enclose you my commission by which your Excel. will see that a mistake has been made in my name, it should have been "Daniel Comstock" instead of "David Comstock"

If your Honor should see proper to correct the erer, I will still act.

If you return my commission direct to Moscow Du-Buque county

I have the honor to be Very Respectfully

Your obt. Servt.

DANIEL COMSTOCK

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To his Excellency Henry Dodge Governor of the Territory of Wisconsin

We your petitioners Citizens of the county of Louisa beg leave to represent that we are labouring under great inconvenience from the want of a Probate Court we would therefore humbly Solicit your Excellency to cause a Probate Judge to be appointed in our county; and would respectfully suggest to your consideration, James M. Clark Esq of Wapello, as a person in our opinion worthy and qualified for the office

W<sup>M</sup> H. THOMAS [and 39 others]

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To His Excellency Henry Dodge Gov. of W. T.

We the undersigned Citizens of the proposed county of Scott feeling the necessity of a Sheriff in our County—do cheerfully recommend to your favorable notice for appointment Mr. Erastus H. Bassett for sheriff of said county—in whose abilities for discharging the duties of said office we have entire confidence

GEORGE R. WASHBON [and 94 others]

To his Excellency Henry Dodge Governor of Wisconsin

Your Petitioners would respectfully recommend John Ken-worthy, John Blaylock, Walter Freeman, Henry Hardman, and George McCoy citizens of Cedar County as persons well qualified to discharge the duties of Justices of the peace

We would therefore respectfully request your Excellency to confer said appoint upon them for Cedar county.

With due respect yours H

L. WHEELER [and 4 others]

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Scott County Dec 18th 1837

To his Excellency Henry Dodge Esq Governor of Wisconsin  
Sir

As the office of Sheriff is of considerable importance, and, as, in the organization of our county we feel a great interest in having it filled by a prudent and capable person, we take the liberty of addressing you, and pressing upon your attention the claims of Mr Frazer Wilson, one of the applicants upon whose petition we have placed our names. Mr Wilson has been for some time past Deputy Sheriff of Du Buque county, and from his Gentlemanly deportment, and the prompt discharge of his official duties has deservedly obtained the confidence of the public

We take great pleasure in recommending him to your Excellency as worthy of confidence, and feel no hesitation in saying should you be pleased to favour him with the appointment, the public interest will be promoted and the appointment entirely satisfactory to the people

With Much respect

We are your Excellencys  
Most obdt & hbl Servts

A. C. DONALDSON

ANTOINE LECLAIRE

[and 8 others]

To his Excellency Henry Dodge Governor of Wisconsin

The undersigned, respectfully represent, that the Citizens of Scott county request that a Sheriff be appointed for said county, and we would respectfully recommend to your Excellency Frazer Wilson, as a person well qualified to discharge the duties of the office of Sheriff, and pray your Excellency to confer said appointment upon him for Scott county.

With great respect yours H

PATRICK QUIGLEY [and 4 others]

---

To His Excellency Henry Dodge, Governor of the Territory of Wisconsin.

The undersigned would respectfully recommend to your consideration Jonathan W. Parker Esq. of Davenport as a suitable person to fill the office of Judge of Probate for Scott county

P. H. ENGLE [and 3 others]

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To His Excellency Henry Dodge Governor of the Territory of Wisconsin

We your petitioners would respectfully present Jonathan W. Parker, of Scott Co. in this Territory, as a proper person to fill the office of District Attorney for said County.

And your petitioners will ever pray

H. NOWLIN [and 4 others]

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To his Excellency Henry Dodge Esquire Governor of the Territory of Wisconsin

Your petitioners Citizens of Scott County, composed of parts of Dubuque and Muscatine, & Cook Counties, Respectfully recommend to your Excellency Andrew F. Russell as a suitable person of good character, & well qualified to fill the

office of County Surveyor, & pray your Excellency to confer said appointment upon him

D. C. ELDRIDGE [and 25 others]

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To his Excellency Henry Dodge Governor of Wisconsin

The undersigned respectfully represent, that, it is the wish of the citizens of Scott County that there be several Justices of the Peace appointed for said county, and they would respectfully recommend to your Excellency J. A. Birchard Jr. Alfred Forest, D. C. Eldridge, Dennis R. Fuller, John Porter, Samuel Hedges, Benjamin F. Pike, and John Work, as persons well qualified to discharge the duties of the office of Magistrate, and pray your Excellency to confer said appointment upon them for Scott county.

With great respect, yours H

P. H. ENGLE [and 4 others]

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His Excellency Henry Dodge Governor of the Terr'y of Wisconsin

We your petitioners humbly represent the necessity of the appointment of three additional Justices of the peace for the County of Scott, and would respectfully recommend to your favorable notice Stephen Hanby Masther N. Bosworth and Laman M. Strong as suitable persons to act as Justices of the peace of said County

H. NOWLIN [and 4 others]

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To His Excellency Henry Dodge Governor of the Territory of Wisconsin your petitioners the undersigned citizens of the town of Burlington respectfully recommend to your Excellency William Griffith as suitable person to fill the office of justice of the peace for said town

R RALSTON [and 32 others]

The undersigned, citizens of Des Moines County, recommend William Griffey, as a fit person to be appointed a Justice of the Peace in the Town of Burlington—

Nov 14th 1837— W. L. JENKINS [and 2 others]

\* Col Inghran refuses to sign this as a matter of delicacy; he having, as a member of the Council, to pass finally upon the nomination—Major Smith says he has no personal acquaintance with Mr. G—

\* Col Teas for the same reason The other members I did not see— C. S. J.

Burlington, Nov 12th 1837

To His Excellency Governor Dodge.

Sir:

In consequence of the wish, as I am informed, of Robert Cock, esquire, to decline acting as a Justice of the Peace, and attend to his farm at which he resides, about two miles from town, it seems to the desire of our citizens that two Justices of the Peace should be appointed in Burlington—

I have already recommended Mr. David Hendershott as a fit person for Justice of the Peace, and I respectfully repeat my conviction that he is worthy and well qualified & that his appointment would be agreeable to a large majority of our citizens, though, I am aware that he has some enemies, who will actually oppose his appointment Notwithstanding this opposition, which grows out of personal matters, he is, I repeat, a worthy & fit person, for the office—if I did not so think, I should not, most — [?] have recommended him—The other gentleman I recommend in company with others is Mr John Griffey—a gentleman, also, every way worthy & well qualified—& who, I am informed, is so fortunate as to have no opposition.

With the greatest respect I am Sir,  
Your most obt Servt & friend

CYRUS S. JACOBS.

Governor Dodge.

To his Excellency Gov. Henry Dodge

We the under Signed petitioners do most Cherfully recommend E. S. Hill as a Competent person to fill the office of Justice of the peace for the County of Desmoin and Solicit your imediate action on the Subject also Henry Moore for the Same office — — —

JEREMIAH SMITH [and 10 others]

---

To His Excellency Henry Dodge Gov. of the Territory of Wisconsin

The undersigned citizens of the Said Territory and mostly inhabitants of Burlington beg leave respectfully to recommend Mr Jonathan J King a resident of Burlington for the office of Auctioneer in and for the County of Des Moines

Mr King is well qualified to discharge the duties of the said office

THOMAS MCKNIGHT [and 18 others]

---

The Governor and Council of the Territory of Wisconsin

The undersigned humbly represent that owing to the resignation of the late Sheriff of the county of Henry, said county is at present without any such officer and would therefore in accordance with the wish of a great majority of the citizens of said county, solicit the appointment of Andrew Kennedy of said county to fill the vacancy aforesaid and your petitioners as in duty bound will ever pray

W. L. JENKINS [and 6 others]

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To the Governor and Legislative Council of Wisconsin.  
We the undersigned show unto you that the town of Burlington is now destitute of a resident Justice of the Peace, James Davidson Esq., formerly a Justice of the Peace of Burlington has within a few day removed several miles in the country, and Robert Cock Esq., who resides in the country, it is true has his office in Burlington, but is necessarily the greater

portion of his time absent: we therefore, pray the appointment of a Justice of the Peace as soon as may be, and further we deem it unnecessary to show; we unite in recommending David Hendershott, a citizen of Burlington, as a person well qualified to fill said office, and pray his appointment to the same, Nov. 10th 1837

C. S. JACOBS [and 21 others]

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To His Excellency Henry Dodge Governor of the Territory of Wisconsin

The Undersigned Citizens of the County of Des Moines, respectfully recommend John S David, as a suitable person, to fill the office of auctioneer of said County—

S C HASTINGS [and 45 others]

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To his Excellency the Governor & the Honorable the Council of the Territory of Wisconsin.

The Petition of the Subscribers Inhabitants of the County of Lee respectfully represent that Edwin Guthrie of the Town of Fort Madison was appointed a Justice of the Peace in and for said County by his Excellency the Governor to fill a vacancy in the office of said County & that his term of office will expire at the end of the present session of the Legislature — Since the appointment of Mr Guthrie he has acted as a magistrate in the town of Fort Madison and has been called upon to do the principal business pertaining to the office in the county—he has been prompt & efficient in the performance of his duties—has been governed in his decisions by the strictest impartiality—has studied to make himself conversant with the laws of the Territory and we believe him to be as well qualified to fill the office of Justice of the peace as any one in the Country—We would further represent that as a man he sustains a high character for ability integrity & moral worth & would earnestly recommend & respectfully solicit his reappointment to the office he has so ably filled Dated at Fort Madison Oct 30th 1837—

JAMES DOUGLASS [and 65 others]

## NUMBER XXIV.

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The greater part of the documentary material printed in this number is illustrative of the method of filling certain local offices during the Wisconsin period through recommendations by the people, nominations by the Governor, and confirmation by the Council.

The eight documents addressed to the Governor are printed from the original manuscript copies thereof as preserved in box 572 in the office of the Governor of the Commonwealth of Wisconsin.

The remaining documents are printed from the original manuscript copies thereof as preserved in the general vault in the basement of the Capitol at Madison, Wisconsin. The two tin boxes in which the latter documents are found are marked "Legislative Miscellaneous, 1836-37-38" and "Legislative Miscellaneous, 1837," respectively.

The petitions praying for the sub-division of Demoine County illustrate the desire of the people for the establishment of new counties. Many similar petitions were addressed to the Legislative Assembly by the inhabitants of Du Buque County for the sub-division of that county.                   B. F. S.



## DOCUMENTS ADDRESSED TO THE GOVERNOR.

Dubuque. May 6th 1837

To His Excellency H. Dodge, Gov'r W. T.

Being much engaged in other business and not able to attend to the duties of office of District Attorney, of the County of Dubuque which I now hold, in a suitable manner. I beg leave to resign the said Office, and would respectfully recommend Thomas S. Wilson Esq'r of Dubuque, to your Excellency as a proper person, to perform the duties of that office, and would solicit his appointment as my successor.

I remain ever your Excellency's most

Obedient Serv't

Wm. W. CORIELL

---

To his Excellency Henry Dodge Governor of the Territory  
of Wisconsin

We your petitioners Citizens of the county of Louisa beg leave to represent that we are laboring under great inconvenience from the want of a Probate Court we would therefore humbly Solicet your Excellency to cause a Probate Judge to be appointed in our county; and would respectfully suggest to your consideration, James M. Clark Esq. of Wapello, as a person in our opinion worthy and qualified for the office.

W. H. R. THOMAS [and 39 others]

---

To His Excellency Henry Dodge Gov. of W. T.

We the undersigned Citizens of the proposed County of Scott feeling the necessity of a Sheriff in our County do cheerfully recommend to your favorable notice for appointment Mr Erastus H. Bassett for Sheriff of Said County—in whose abilities for discharging the duties of Said office we have entire Confidence

JOHN HENING [and 94 others]

To His Excellency Henry Dodge Governor of the Territory of Wisconsin.

The petition of the undersigned citizens of the Territory of Wisconsin and county of Lee Respectfully Represents

That Thomas Edwin Guthrie now acting Justice of the Peace of the Town of Fort Madison and county aforesaid is in the opinion of your petitioners incapable of filling that office for the following Reasons Viz. He has been Remiss in the duties of his office & in the opinion of your petitioners has been partial in his decisions and has also fined citizens for not attending as Jurors who had not been summoned to appear in that capacity when that fact was known to him and the persons not being Legal Jurors in case they had been summoned And your petitioners further represent. That the said Edwin Guthrie is not in their opinion of sufficient capacity to fill the office of Justice of the peace. Therefore your petitioners pray that the said Edwin Guthrie be removed from said office And your petitioners would Recommend as a suitable person to fill the said office Isaac Vandyke as a man of tried integrity and Known ability for said office. Your petitioners as in duty bound will ever pray.

Dated at Fort Madison Oct. 4. 1837

PETER PERKINS [and 43 others]

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At An election held on Saturday the 30th day of December 1837 pursuant to orders at the house of John Burkharts. Burkharts point in Township 71 in the County of Demoin Wisconsin Territory on Closing the poll and Counting the votes it appeared that James Hedrick was duly and unanimously Elected Captain

No Candidates for Lieutenant or Ensign—

In testimony whereof we the judges and Clerk of said Election have hereunto set our hands the said 30th Day of December in the year of our Lord 1837

Judges

JOHN BUCKHART Clerk

JOHN MOORE  
Wm. HOWARD

Mount Pleasant Henry County  
Wisconsin Territory Dec'r 3. 1837

To the Honorable Henry Dodge Governor of the Territory  
of Wisconsin

We your humble petitioners ask to have George Miller Jr.  
appointed district Surveyor for the County of Henry and and  
as such your petitioners will ever pray.

JOHN H. RANDOLPH [and 51 others]

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To His Excellency the Governor and Council of appointment  
of Wisconsin Territory We your petitioners—Inhabitants  
of the vicinity of the upper Mississippi Rapids would  
respectfully represent that it is anticipated that a new County  
will be formed the present session comprising said vicinity  
and we would pray your honorable body to appoint Wheeler  
Hedges as County Surveyor of said County believing him  
in every way qualified for said office.

Davenport Oct 30th 1837

WILLIAM C. ENOS, Jr.

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Peru W. T Dec'r 28th 1837

To his Excellency Henry Dodge Esq

Dear Sir we the subscribers Knowing Myron Patterson as  
a Man of family and one of the first Settlers of this place and  
Consider him in every way qualified for the office of Justice  
of the Peace. We do Cordially recommend him to your  
Notice for said office

JOHN W BURGIS. [and 21 others]

## NOMINATIONS BY THE GOVERNOR

Executive Department for the Territory of Wisconsin

November 8th 1836.

Sir,

I have made the following nominations of officers for appointment:—

Robert Cock to be Judge of Probate for the County of Des Moines, and

Timothy Mason, to be a Justice of the Peace for the County of Du-Buque.

Very respectfully

H. DODGE

To Henry S. Baird Esq President of Council

Confirmed November 8th 1836

Commission dated 12th Nov.

Executive Department  
November 30th 1836.

Sir,

I have made the following nominations of officers for appointment in the County of Du Buque, to which the consent of the Council is respectfully requested.

GEORGE W. CUMMINS to be Sheriff

EZEKIEL LOCKWOOD " Judge of Probate

IRA WILLIAMS                    }     " Notaries Public  
WARNER LEWIS                    }

Justices of the Peace

IRA WILLIAMS	WARNER LEWIS
IRA COOK	WILLIAM HATTON
ELEAZAR PARKHURST	DAVID DYASS
JOHN D. BELL	JOHN JONAS
GEORGE W. HARTIN	WILLIAM HOGAN
ALEXANDER W McGREGOR	DAVID BLYTHE

HENRY LANDER	WILLIAM W. WAYMAN
JACOB HAMILTON	PAUL CAIN
DAVID HOGAN	ANDREW DIVAN
BRATTEN BUSHEY	SILAS WEBSTER
ROBERT G. ROBERTS	DANIEL COMSTOCK
ROBERT DAVIS	ANDREW BANKSTON
JOHN FLIN	
PATRICK QUIGLEY	} to be Auctioneers
JOHN D. SMOKER	
WILLIAM W. CORIELL	" District Attorney
	H. DODGE

To the Honourable the President of Council

Confirmed by the Council Dec 1st 1836 on Motion of Mr Foley

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Executive Department  
December 1. 1836

Sir,

I have nominated the following militia officers in the several Counties:—

\* \* \* \* \*

IN DU BUQUE COUNTY

WILLIAM W. CHAPMAN	[to be] Colonel
PAUL CAIN	" Lieut Colonel
WILLIAM S. ANDERSON	" Major

IN DES MOINES COUNTY

BERRYMAN G. WELLS	[to be] Colonel
OLIVER COTTLE	" Lieut Colonel
PRESLEY CHALFANT	" Major

\* \* \* \* \*

H. DODGE

To the Honourable the President of Council

Confirmed Dec 1st 1836

Executive Department  
December 7th 1836

Sir,

I have made the following nominations for appointment to the several offices herein designated, and request the consent of the Council thereto:—

\* \* \* \* \*

ROBERT G. ENEIX to be Justice of the Peace for  
the County of Du Buque.

\* \* \* \*

H. DODGE

To the Honorable the President of Council

Confirmed by the Council Dec'r 7th 1836,

Executive Department  
December 8th 1836

Sir,

I have made the following nominations for appointment to office in the several Counties herein designated, and respectfully ask the consent of the Council thereto—viz.

IN THE COUNTY OF LOUISA

SAMUEL SMITH to be Sheriff

### **to be Justices of the Peace**

WILLIAM MILLIGAN

ISAAC RINERSON

CHRISTOPHER SHUCK

WILLIAM L. TOOL

IN THE COUNTY OF DES MOINES

**to be Justices of the Peace**

ISHAM EDWARDS

THOMAS DICKEY

JOHN BUCHHART

JAMES HATCHER

WILLIAM DUPONT

CHARLES R. BENNETT

PARNEY VEEACH

JAMES DAVIDSON

DANIEL STRONG

WILLIAM BUCHANAN  
LEONARD ABNEY  
ROBERT COCK

HIRAM C. SMITH  
RICHARD LAND

IN THE COUNTY OF COOK  
to be Justices of the Peace  
HENRY W. HIGGINS  
SAMUEL CAMPBELL

IN THE COUNTY OF VAN BUREN  
HENRY BATEMAN to be Judge of Probate  
ISAAC C. NORVEL " Sheriff  
to be Justices of the Peace  
HENRY BATEMAN RICHARD JONES  
SAMUEL C. REED PAUL BRATTON  
HENRY MOSS WILLIAM SAUNDERS

IN THE COUNTY OF MUSCATINE  
JAMES DAVIS to be Sheriff  
to be Justices of the Peace  
BENJAMIN NYE SILAS S. LATHROP  
THOMAS STACKS ERR THORNTON  
JOHN G. COLEMAN

IN THE COUNTY OF LEE  
CAMPBELL GILMORE to be Judge of Probate  
JOSHUA OWEN " Sheriff  
to be Justices of the Peace  
JOSEPH DOUGLASS THOMAS O'NEAL  
ISAAC BRIGGS STEPHEN PERKINS  
JOHN GANES CALVIN S. PEARCE  
EDLEY MCVEY THOMAS W. TAYLOR  
WILLIAM HOWARD SAMUEL ROSS  
WILLIAM SKINNER

## IN THE COUNTY OF HENRY

to be Justices of the Peace

WILLIAM MORROW	ISAAC BOWEN
JOHN PHILLIPS	SAMUEL NELSON
ABRAHAM C. DOVER	PETE HALE
ELIJAH TURNER	REUBEN W. GILLENWATER

\*LEFTREDGE LINDSLEY

WILLIAM D. BROWN, to be Sheriff

SAMUEL NELSON " Judge of Probate

\*[Not found in the communication of the Sec. of the Council  
announcing confirmation to the Governor.]

## IN THE COUNTY OF DES MOINES

ROBERT AVERY	to be District Surveyor
	H. DODGE

To the Honorable the President of Council

Confirmed Dec 9th 1836 on motion of Mr Teas

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Executive Department  
December 9th 1836

Sir,

I have made the following nominations for appointment to the several offices affixed thereto, and request the concurrence of the council in the same, viz:—

Shepherd Leffler, to be District Attorney for the County of Des Moines.

\* \* \* \* \*

H. DODGE

Confirmed Dec 9th 1836

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Territory of Wisconsin Executive Department  
Burlington Jany 1, 1838

To the Honorable the President of Council

Sir

The following nominations are submitted for the consideration of the Council, viz:—

James W. Tallman, Sheriff of Cedar County;  
John Blaylock, Walter Freeman, Henry Hardman &  
George McCoy, Justices of Peace for Cedar County.

Frazer Wilson, Sheriff of Scott County;  
Jonathan W. Parker, Judge of Probate, Scott County;  
Jonathan W. Parker, District Attorney, Scott County;  
Andrew F. Russell, District Surveyor, Scott County;  
I. A. Birchard, Jun., Alfred Forest, D. C. Eldridge, Dennis  
R. Fuller, John Porter, Samuel Hedges, Benjamin F. Pike,  
John Work, Stephen Hanby, M. N. Bosworth, Luman [?] M.  
Strong, Lewis Ringleby and Samuel Man, Justices of the  
Peace for Scott County.

\* \* \* \* \*

Very respectfully  
Your obedn't Serv't

HENRY DODGE

---

Territory of Wisconsin Executive Department  
January 19. 1838.

To the Honorable, the President of Council:—

Sir,

I submit for the consideration of the Council the following  
nominations to office:—

Edwin Guthrie, Commissioner of Bail for the County of  
Lee;

Myron Patterson, Justice of the Peace for the County of  
Du Buque;

Robert Balmford, James Johnson & Arthur Washburn,  
Justices of the Peace for Muscatine County;

LOUISA COUNTY

MARTIN HARLESS,	Sheriff
SAMUEL DUNHAM	Just. of Peace

## DESMOINES COUNTY

## Just of Peace

Rejected  
on motion  
of Mr Teas

Rejected on motion of Mr Teas	JONATHAN J. KING, HENRY W. MOORE, JOHN M. GANIQUES, WILLIAM PHINNEY
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JOHN M. GANIQUES      Not. Pub.

HENRY DODGE

dated 19th

Confirmed Jany 19.

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Territory of Wisconsin Executive Department,  
Burlington Jany 8. 1838

To the Honorable, the President of the Council,  
Sir,

I herewith submit for the consideration of the Council the following nominations to office, viz:

\*      \*      \*      \*      \*      \*      \*

Justices of the Peace for Du Buque County

JOSEPH T. FALES      WILLIAM MORRISON

C. C. BELLOWS

\*      \*      \*      \*      \*      \*      \*

ISAAC N. LESH,      Justice of the Peace, Johnson County

Justices of the Peace for Clinton County

MARTIN DUNNING      JAMES N. HOLLOWAY

GEORGE BECK      MARTIN AMES

## JACKSON COUNTY

WILLIAM A. WARREN,      Sheriff

JAMES K. MOSS,      Judge of Probate

JOHN McDONALD,      District Surveyor

## Auctioneers

LEVI HEFFLER      JOSEPH JEFFERSON

JOS. S. KIRKPATRICK,      Notary Public

## Justices of Peace

MATTHIAS RINGER  
WILLIAM MORDEN  
Jos. J. KIRKPATRICK

JAMES S. BENTIS  
WILLIAM PHILIPS  
CHARLES SWAN  
HENRY DODGE

Confirmed

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Territory of Wisconsin Executive Department  
Burlington, Nov. 25, 1837

Sir,

I have the honor to submit the following nominations, for appointment to office, for the consideration of the Council, viz:—

*	*	*	*	*	*	*	*	*
CHARLES MASON			Dist. Attorney for Des Moines County					
THOMAS S. WILSON			do	" Du Buque		do		
*	*	*	*	*	*	*	*	*
SERATUS C. HASTINGS			do	" Louisa		do		
JAMES R. STROTHER,			do	" Muscatine		do		
JAMES CAMERON			Sheriff	" Des Moines		do		
*	*	*	*	*	*	*	*	*

GILBERT C. R. MITCHELL,

Mast in Chancery for Du Buque do

THOMAS S. WILSON

Sup. Court Commiss " ditto do

THOMAS M. ISETT Dist. Surveyor for Muscatine do

\*

Very respectfully, Your obed't. Serv't,

HENRY DODGE

Confirmed Jany 3, 1838.

Territory of Wisconsin Executive Department  
Burlington Jany 15, 1838.

To the Honorable, the President of Council:

Sir,

I submit, for the consideration of the Council, the following nominations to office, viz:—

\* \* \* \* \*

IN THE COUNTY OF DU BUQUE

DAVID STEATOR,	Lieutenant Colonel of the Fourth Regimental District:
THOMAS CHILDS,	District Surveyor;
ASA LEEK,	Justice of the Peace;

IN THE COUNTY OF LEE

Justices of the Peace

ANTHONY STRUP [?],	WILLIAM WILSON,
WILLIAM COLEMAN JUN.,	JOHN A. DRAKE,
DAVID W. KILBURN,	THOMAS GREGG,
HAWKINS TAYLOR,	
CYRUS POAGUE,	District Surveyor;
HENRY ENO,	Judge of Probate;
PHILIP VIALE [?],	District Attorney.

IN THE COUNTY OF VAN BUREN

Justices of the Peace.

JAMES G. KENNON [?],	JOHN A. WHITTAKER,
SAMUEL MORETON [?]	and SAMUEL JACKSON.

IN THE COUNTY OF HENRY

Justices of Peace:

PAUL BRATTON,	N. C. STEEL,
WILLIAM NEWMAN,	WILLIAM G. COOP,
JAMES GILMORE,	SCOTT WALKER,
GEORGE MOFFETT,	WILSON LOWES,
ABRAHAM UPDEGRAFF,	ROBERT POLLOCK,
HEZEKIAH S. DUNHAM,	

ISAAC VAN ALLEN,      District Attorney  
JAMES M. SNYDER,      District Surveyor

IN THE COUNTY OF DES MOINES.

Justices of the Peace

JOHN O. SMITH,      WILLIAM SMITH,  
JAMES D. SPEARMAN,      JAMES HEDRICK,  
JOHN D. WRIGHT,      JOHN COCHRAN,  
JAMES W. GRIMES,  
JOHN B. NEWHALL,      Auctioneer:  
HENRY W. MOORE,      Notary Public.

James G. Hall, Zadock [?] C. Inghram, John Reynolds,  
William Kennedy and Isaac Parsons, Justices of the Peace for  
the County of Louisa.

John S. Kidder, Justice of the Peace for Muscatine County.

IN THE COUNTY OF SLAUGHTER.

John C. Ellis, Sheriff: & Elias Bewel and Matthew More-  
head, Justices of the Peace.

\*     \*     \*     \*     \*     \*     \*

HENRY DODGE.

Confirmed on Motion of Mr Sweet Jany 15, 1838

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Territory of Wisconsin Executive Department  
Burlington Jany 16, 1838.

Sir,

I submit the following nominations for the consideration of  
the Council, viz:—

\*     \*     \*     \*     \*     \*     \*

IN THE COUNTY OF SCOTT

JACOB HELLER,      Justice of the Peace

IN THE COUNTY OF CLAYTON

ELIPHALET PRICE,      Justice of the Peace  
HENRY F. LANDER,      Sheriff

CHARLES S. EDSON, District Surveyor  
 WILLIAM W. WAYMAN, Supreme Court Commissioner  
 SAMUEL H. R. McMASTERS Judge of Probate

## IN THE COUNTY OF DU BUQUE

Justices of the Peace

CHARLES P. HUTTON, SAMUEL M. BARRINGTON,  
 HARDIN NOWLIN, Supreme Court Commissioner

## IN THE COUNTY OF CLINTON.

JOSEPH YOLGER, Justice of the Peace for Clinton County.  
 HENRY DODGE

Confirmed Jany 17. 1838 on Mot of Mr. Sweet

Executive Department  
 Burlington, Nov. 18, 1837

To the Hon. the President of the Council  
 Sir,

I have the honor to nominate the following officers, for the consideration of the Council, viz:—

## FOR THE COUNTY OF DES MOINES

Justices of the Peace

WILLIAM GRIFFEY E. S. HILL  
 HENRY MOORE

## FOR THE COUNTY OF VAN BUREN

WILLIAM C. RICE, District Surveyor  
 Very respectfully

Your obed't Serv't

HENRY DODGE

Confirmed Nov. 20

Territory of Wisconsin Executive Department  
January 18, 1838.To the Hon. the President of the Council  
Sir

I submit for the consideration of the Council the following nominations for appointment, viz:

William Olney, Justice of the Peace for the County of Van Buren: and

Orison Craig, David Rankin &amp; Philip Maskell Justices of the Peace for the County of Des Moines.

Very respectfully

Your obed't Serv't

HENRY DODGE

Confirmed Jany 18, 1838 on mot. of Mr Sweet

Executive Department  
Burlington Nov. 13, 1837To the Hon. the President of the Council,  
Sir,

I have the honor to communicate the subjoined nominations to office, for the consideration of the Council:—

FOR THE COUNTY OF DES MOINES

DANIEL HENDERSHOTT Justice of the Peace

Auctioneers

JONATHAN J. KING

JOHN S. DAVID

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\*

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\*

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FOR THE COUNTY OF HENRY

ANDREW KENNEDY Sheriff

FOR THE COUNTY OF LEE

EDWIN GUTHRIE Justice of the Peace

Very respectfully,

Your obedient Serv't

HENRY DODGE

Confirmed Nov. 14.

## MISCELLANEOUS PETITIONS.

To the Council and House of Representatives of Wisconsin Territory we the undersigned Citizens of Desmoine County and Territory aforesaid pray for a division of s<sup>d</sup> County of Desmoine as follows to wit makeing the half Breed Line the south boundery to a point Eighteen miles west from the Mississippi River to a point Bounded West by a Line Running a due North Course twenty four miles from s<sup>d</sup> point thence an East Course to the Mississippi River. such Boundaries your petitioners Consider to be necessary and more particularly the South Boundary and as in duty bound will ever pray

20th. Oct. 1836

Names

JOSEPH EDWARDS [and 28 others]

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To the Honorable the Legislative Assembly of the Territory of Wisconsin.

The petition of the undersigned Inhabitants of Desmoines County respectfully represent — That for the convenience of a large portion of the inhabitants residing in the upper part of said county it is necessary that a ferry be established across the Mississippi river from West Point to Pikes addition to Stephenson —

We your petitioners pray your Honorable body to grant to Ira Cook a charter for a ferry with the exclusive right of ferrying across the Mississippi river from a point opposite the middle of Maple Island (or one mile above West Point) to a opposite Credit Island one and a half mile below West Point with a Horse Boat or Steam Boat for the Term of Twenty years at such rates and under such restrictions as shall seem right to your Honorable Body —

W.M. L. COOK [and 22 others]

To the Honorable the Council and house of Representatives  
of the Territory of Wisconsin

Your petitioner would respectfully represent to your honorable body, that he is now the owner of the ferry landing on the west bank of the Mississippi River in the town of Dubuque, in the county of Dubuque in said Territory and living on the same, he therefore would respectfully ask your honorable body to grant to him the privilege of keeping said ferry for the term of thirty one years, under such restrictions and regulations as in your wisdom may be proper — and your petitioner as in duty bound will ever pray, etc, etc.

Bellmont Nov 23rd 1836

JOHN McGARRY.

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To the Honorable the Council and House of Representatives  
of the Territory of Wisconsin

The undersigned, respectfully represents to your Honorable body, that he is interested in the land, and the buildings thereon situated, at Camp Des Moines on the west side of the Mississippi River, at the head of the Des Moines Rapids on said Mississippi River, and your petitioner would also represent that the interest of the community requires that a ferry should be established and continued across the Mississippi River at said point — and that a petition has heretofore been introduced in the Council, and referred to the committee on the judiciary, praying that the right to establish such ferry may be granted to one of the citizens of the State of Illinois — and your petitioner believing that your honorable body, will be as anxious to promote the interests of the citizens of Wisconsin as of Illinois, prays that your Honorable body will pass a law granting to him the right of establishing and continuing such ferry, for such length of time and under such restrictions as to your Honorable body may seem proper and as in duty bound will ever pray

Bellmont Nov 24th 1836

MOSES M. STRONG

[Dec. 1st 1836]

To the Honorable the Council, and house of Representatives  
of the Territory of Wisconsin

Your petitioners would respectfully represent to your honorable body that they reside on the east and west bank of the Mississippi River between three and four miles above the town of Dubuque, and that they own and occupy the landing on both sides of said river, your petitioners would further state that in order to improve the east side or bank of the said river it will be necessary to cut a channell or canale across the neck of an Island which will cost about one thousand dollars. They therefore would respectfully ask your your honerable body, to grant to them the privilege of keeping a ferry on the said Mississippi River for the term of twenty one years to be located on the South East fractional Quarter, section Twenty, Town one north, Range Two west on the east, and at Hams landing on the west, at or as near as practicable to Eagle point on said Mississippi River under such restrictions, and with such regulations as in your wisdom may deem proper

And your petitioners as in duty bound will ever pray, etc

MATTHIAS HAM  
HORACE SMEAD

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To the Honorable the Council and House of Representatives  
of the Territory of Wisconsin

The Petition of Justice Parsons respectfully sheweth —

That your petitioner is the possessor of a certain tract of land and premises situate on the West bank of the Mississippi River in the County of Du Buque about three miles northward of the town of Peru, and immediately opposite the town of Oseola on which is a good landing place for boats. —

Your petitioner would further represent to your honerable body, that the convenience of the inhabitants of the surrounding country on both sides of the Mississippi River, requires that a ferry should be established, between the landing of your

petitioner and the said town of Oseola; & that your petitioner has already built boats, sufficient for the purposes of a ferry.

Your petitioner would therefore pray your Honorable Body to enact a law to enable him to keep a ferry between his said landing place and the town of Oseola, on the east bank of the Mississippi River, immediately opposite with such restrictions and regulations as to your Honorable Body shall seem proper.

And your petitioner shall ever pray etc

JUSTICE PARSONS

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We the undersigned, citizens of Desmoines County, respectfully represent to the Legislature of Wisconsin, that the people of said county are very unfortunately situated on account of the want of bridges over a number of small streams running through said county, and respectfully petition the said Legislature to pass a law giving power to the commissioners of said county to raise an (ad valorem) or (poll tax) on the inhabitants for the purpose of building bridges across the Flint at such points as the said commissioners shall deem expedient

JOHN JONES [and 87 others]

